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LECTURES

ON THE

CONSTITUTION OF THE UNITED STATES

BEFORE THE LAW CLASS OF
MERCER UNIVERSITY

BY

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MACON GEORGIA

THE J. W. BURKE COMPANY

1897

Checked
May 1913

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EMORY SPEER.
MACON, GA.

TO MY FATHER,
EUSTACE W. SPEER, D. D.,
AN EXEMPLAR OF THE CHRISTIAN PATRIOT, WHO EARLY
TAUGHT HIS CHILDREN THAT LOVE OF OUR COMMON
COUNTRY HE INHERITED FROM PATRIOT
SIRE, THIS LITTLE VOLUME IS
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PREFACE.

THESE lectures introductory to the explanation of the Constitution, as made to the Law students of Mercer University, are printed in response to many requests for their publication in this form, especially from young men. They were printed as they were delivered, and given wide publicity by the *Macon Telegraph*. The evident interest manifested in the historical incidents they detail, must be ascribed in large part to this action of that widely read journal. It is, however, gratifying to believe also, that, after many formidable assaults and misguiding interpretations, from time to time aimed at the indispensable and inherent powers of the noble instrument to which they relate, its established efficacy for all the essentials of National Government, has won for it lasting popular confidence and the anxious desire of enlightened Americans to master its principles. Indeed, there is now known of all men in all sections of our country the priceless value of the truth expressed by Washington in his Farewell Address, "The Union is the edifice of our real independence, the support of

our tranquility at home, our peace abroad, our prosperity, our safety and the very liberty, which we so highly prize, that for this Union we should cherish a cordial, habitual, immovable attachment and should discountenance whatever may suggest even a suspicion that it can in any event be abandoned." The author, engaged for nearly thirteen years with judicial duties largely involving the enforcement of the National laws among Southern people, is enabled to certify that this truth is as dear to the intelligent Southern men of to-day, as to Hamilton, the brilliant projector of the Constitution ; to Madison, its incomparable advocate ; to Marshall, its great expounder, and to the illustrious Washington himself.

In one of these lectures reference was made to the importance of reviving in the Southern States the celebration of Independence day. Shortly after its publication the author was invited by the Jefferson Club of Augusta, Ga., to deliver an address at the revival in that city of those time-honored and patriotic observances. The occasion was most significant. To quote the felicitous language of the Honorable Jos. B. Cumming, introducing the "Orator of the day :"
 "The fact itself exists that for more than a generation the Fourth of July, its memories and observances, were exiled from this Southern land. We now 'call

home our ancient thoughts from banishment,' and we intend to enjoy the delights of the palace our fathers builded.'" In harmony with this ennobling purpose of a typical and cultured Southern community, it has been deemed proper to reproduce in connection with these lectures, describing the formation of the government, the address delivered on the memorable occasion designed to strengthen and intensify that true American spirit essential for its preservation.

LECTURE I.

In beginning the lectures on the Constitution of our country, I have, upon reflection, deemed it proper to give a prefatory statement of the principal causes which produced our political union. Our constitution is the outgrowth of our political union and the expression of our legal union.

The people who composed the American colonies before the political union to which I shall advert, enjoyed the benefits of English law; that is to say, of the common law which had come down to the peoples of the English-speaking races from the "time whereof the memory of man runneth not to the contrary," and, besides, the principles of equity jurisprudence which had been evolved in the judicial history of the mother country. Those laws, together with the civil law which survived the fall of the Roman empire, practically dominated the legal relations of all civilized men. Of course uncivilized, or partially civilized people, have no positive laws—in a word, no jurisprudence. But the English law, though of force everywhere in

the colonies, did not join them into such a political union as made them a unified nation. The incidents which brought about that result should be vivid in the knowledge and memory of every youth of our country ; indeed, of every American citizen.

The colonial people of English descent, in the early settlement of our country soon became opposed to the ambitions of the French, ever a daring and energetic race. The English, who had colonized the Atlantic seaboard, claimed title to the magnificent territory, which constitutes our country, through the discoveries of the Cabots, John and Sebastian. The French made claim to much of the same domain because of the discoveries and explorations of such famous Frenchmen as Marquette, La Salle, Joliet and DuQuesne. These great men, proceeding from what is now Canada, followed the course of the great rivers trending towards the Mexican Gulf, and explored and claimed for their king that vast and fertile country lying to the westward of the Alleghany mountains. New Orleans was founded by a French company ; D'Iberville founded Mobile. French forts were placed at intervals from the city of Quebec on the north to the city of New Orleans on the south. With two such races in proximity on this continent, both animated with the ambition to possess the soil, it is not surprising that

conflicts soon ensued. The final struggle began about the year 1752, twenty years after the birth of Washington and nineteen years after the settlement of Georgia. An association of Virginians and English, formed in 1849, called the Ohio Company, sought to establish a military post at the junction of the Alleghany and Monongahela, the two rivers which formed the Ohio, at a point now known as Pittsburg. The French in 1753 constructed a fort at Presque Isle, now Erie, on Lake Erie, and proceeded to establish a chain of forts through what is now the oil region of Pennsylvania. The chain extended about one hundred miles from Presque Isle to the fort at the present site of Pittsburg.

The representatives of the Ohio company had begun to fortify at that place. Governor Dinwiddie, of Virginia, being apprised of the action of the French, sent a young surveyor, just twenty-one years old, to carry the protest of the company, and if need be of the people of Virginia, to the Frenchmen. This young man was George Washington. The intrepid youth, unconscious of his immortal destiny, threaded the pathless forests on an errand which was to evoke fierce and protracted wars, and to result as we shall perceive in the creation of the mighty nation whose richest heritage of patriotism and glory is the fame of Washington

himself. Washington carried the message and delivered it to the French commander at a small fort called Le Bœuf, when he was informed that it was the purpose of the French to maintain their positions and to resist by force any aggression on the part of the English, in any part of the territory beyond the Alleghanies. He returned to Virginia and conveyed the reply to Governor Dinwiddie, and he himself at once went to work to recruit a regiment of 400 provincials, and at their head marched into the wilderness to maintain the cause of the Virginians. He was met with an overwhelming force, and at first achieving a slight victory, he was surrounded at a place he called Fort Necessity, and was compelled to surrender. Thus the first shot was fired in the struggle between the French and English peoples, which lasted for nearly sixty years, and which resulted, as we shall see, in the establishment of the great empire to which you and I are devoted in love and allegiance, and whose fundamental law, the Constitution of the United States, will be our study. It was in 1754, on the 4th day of July, that Washington surrendered Fort Necessity, just twenty-two years before the Declaration of Independence was adopted by the Continental Congress.

In 1755 General Braddock, with two regiments of regular British troops, was sent to Virginia. The

history of his disastrous defeat is familiar to you all. The courage with which Washington, at the head of a few Virginia riflemen, covered the retreat of the routed and demoralized regulars gave the forecast of his great and resourceful military character. Braddock was an incompetent commander. Many of his officers were likewise incompetent. He was an imperious, hard drinking, haughty martinet. A most amusing picture is given of him and his staff in Thackeray's delightful novel, "The Virginians," which is doubtless a not inaccurate delineation of his overweening confidence and his contempt for the colonial troops.

Montcalm, the greatest of all the French commanders in this country, was now appointed governor of Canada, and, directed by his genius, the French prevailed in nearly every engagement until 1757, when Pitt became prime minister of England. This was the elder Pitt, the famous Earl of Chatham, who had been a soldier in his youth, and whose imperious eloquence in debate and dread invective made his rival, Walpole, dub him "the terrible cornet of horse." Of these statesmen, Dr. Samuel Johnson declared "Walpole was a minister given by the king to the people, but Pitt was a minister given by the people to the king." The provincials, now for the first time treated with consideration, flocked to the side of the great prime

minister. He soon drove the French from New York. Fort DuQuesne, which had been the gauge of battle between Braddock and his French foes, was conquered, and the locality appropriately named Pittsburg. This point is now the site of that great manufacturing city, which, like the county of Chatham in our own State, will serve to perpetuate the renown of the "Great Commoner."

Louisburg, a strongly fortified post in the possession of the French on the island of Cape Breton, was captured. Ticonderoga, after the horrible failure of Abercrombie, was at last taken, and under the renowned Wolffe, who in the victory expended his own glorious life, the British soldiers swarmed up the heights of Abraham, routed the French under Montcalm and took what was then deemed impregnable Quebec. In 1760 the English and provincials were triumphant everywhere. George III ascended the throne and the war lasted about three years. During that period, Spain having become an ally of France, the British took the city of Havana in Cuba, the colonists contributing largely to that result. In the treaty of Paris which soon followed, that city was exchanged for Florida. At the same time there was a secret treaty between France and Spain by which France ceded to Spain all the territory claimed by the French west of

the Mississippi, and that small portion on the eastern bank where the city of New Orleans is situated. This was regarded thereafter as Spanish territory, but was still called Louisiana, a name which the French had given it in honor of their king, Louis XIV. I may remark that, in 1800, it was retroceded by the Spanish government to the French then under the control of Napoleon Bonaparte. In 1803, Napoleon sold it to the United States of America, Mr. Jefferson being President, for the sum of \$11,250,000, besides \$3,500,000 of claims of our people from French spoliation which the United States assumed.

To recur to the treaty of Paris, which took place in 1763, the French, having parted with all of their possessions on either side of the great river, ceded to Great Britain all of the territory east of the Mississippi, except that small portion on which the city of New Orleans was situated, and thus were ended the projects of the adventurous and devoted Frenchmen, who had designed a great Gallic empire in America.

Now, my purpose in calling your attention to the old French and Indian wars may not be at once evident. It is, however, comprehended in the results of that war upon the history and character of the American people. The colonists, in all the bloody encounters of that period, exhibited a remarkable degree of

military prowess. Theretofore they had regarded themselves as dependents of the British crown, and had largely relied upon it for their protection from their powerful neighbors, the French, who had a far greater influence than the English, with the numerous and ferocious savages, who threatened the attenuated settlements along the Atlantic coast. The provincials now for the first time realized what I may term their own national manhood. They now appreciated the fact that their officers were equal, if not superior, to the regular officers of the king. The regiments of Royal Americans, as the provincials were called, had achieved great military distinction. It was known and appreciated by men trained in the profession of arms throughout the military world. They had in these wars received a great deal of practical military training, which became of the first importance in the struggles thereafter to follow. You will remember that, like Washington, many of the most distinguished military leaders of our revolutionary period had served through these wars with the French. More important than all, the necessity of launching the united forces of the colonists against the French had given the first actual impulses toward the American union. As early as 1748, and from 1748 to 1755, a union of the colonies had been discussed, and indeed urged.

Benjamin Franklin had attempted, at Albany, N. Y., to formulate a plan of union between all the colonies. This was inevitable. It was the logical necessity of their situation. But there was now new incentive to a unified America.

When victorious in the French war the colonists realized that there was before them an unlimited western expansion, and that there was nothing to stop their enterprise, their acquisition and development of the soil, until they reached the shores of the Pacific. But there was also a danger which confronted them, far more persuasive of union and united resistance than the motives I have recounted. In the early settlement of the country, charters had been granted to the people of Massachusetts, Connecticut, Virginia, North Carolina, South Carolina and Georgia, by which the British crown had conveyed to them all of the lands extending to the then Mississippi river. These royal grants were made when the lands were in actual or constructive possession of the French, and while they were the disputed prize of war between the belligerent nations. Now, when the English and colonists were victorious, and the lands were ceded to the British crown, notwithstanding the charters it had previously granted, and on the faith of which the colonists had expended their treasures and the lives of

their brethren, it was demanded by Great Britain that these lands, to-day constituting an immense proportion of this country, should be treated as crown lands, subject to distribution and apportionment by the king himself, to whatever favorite might be the object of his bounty. The colonists at once resented this royal perfidy, and mistrust and friction followed. It is said by some writers concerning those days that the French, with profound policy, had withdrawn from America for the reason that they knew as soon as the colonists were in a position to assume possession of the lands, they would become powerful enough to throw off the yoke of the British government, and thus the great hereditary enemy of the French would be proportionately weakened. Whether that was the true reason which caused their abandonment of the country, or whether it was merely to excuse their defeat, we may not now determine. But certain it is, that, notwithstanding the strong loyalty to the British crown, shown by the people of America at that time, this dispute became an active and efficient cause of ill will between them and the British ministry. Then, too, when the peace of Paris in 1762 had relieved them from the fear of France, the British Board of Trade at once began aggressions against American commerce, which even at that early period of our history, had excited the envy and

apprehensions of the merchants of London and Liverpool. Obsolete customs regulations were revived, and writs of assistance were issued by the crown in order to collect customs duties. These were collectible perhaps under ancient statutes, which, however, had never been enforced while the colonists were fighting side by side, with the soldiers of the crown, against the common enemy. Searches were made on American ships and in American warerooms. Confiscations followed the searches, and immediate resistance was put forth by the people. The eloquent Otis, a brilliant son of Massachusetts, urged against these writs of assistance, that they were contrary to Magna Charta. It was replied that they were justified by act of parliament. Otis met this proposition with the dictum of Coke that an act of parliament contrary to Magna Charta is null and void. The English theory was that the colonies were merely corporations. That the charters had been granted just as a railroad company is created by the laws of Georgia, and that the king had authority over the corporation, just as a State under our constitution now retains the right to change or modify a provision of a charter. But all this was denied by the colonies. They denied that parliament had any such control of their affairs. While they professed unbounded loyalty to the king, they claimed

that this policy of the British government was revolutionary ; that the authority of Great Britain did not extend *extra quatuor maria*, that is to say, beyond the four seas, which encompass that wonderful insular people ; that there was no imperial government of Great Britain which could lawfully make exactions as against their interests. In this day and time, Victoria is not only the Queen of Great Britain and Ireland, but she is Empress of India, and parliament makes laws for the inhabitants living on the banks of the Ganges and amid the Himalayas, although these hundreds of millions of British subjects have no representatives in parliament. But the East Indian does not possess the love of liberty and the personal courage which actuated the American colonists, when they denied the imperial power of parliament and of the king. Indeed, after 1774, they did not address parliament in any of their petitions. They were directed to the Crown. “ I am quite sick,” said Benjamin Franklin, “ of our sovereignty,” on which the British politicians were all the while harping. Franklin was in England at the time, as agent of the American patriots. There had come into his hands some letters which had been written by Governor Hutchinson, the royal governor of Massachusetts, to the private secretary of Lord Grenville. Among much else exasperating to

the patriots, Hutchinson had written : “ If you do not send over regiments at once to uphold the law, we might as well abandon our posts and throw up our commissions.”

It is not made very plain how Franklin got hold of these letters, but he caused them to be published in Massachusetts, and afterwards avowed his connection with their publication. Massachusetts petitioned for Hutchinson’s removal, and Wedderburn, then solicitor general and afterwards Lord Loughborough, in a speech before the Privy Council in behalf of Hutchinson, made one of the most vehement invectives against Franklin of which our literature affords an account. Among other things he said :

“ I hope, my lords, you will mark and brand the man, for the honor of this country, of Europe and of mankind. Private correspondence has hitherto been held sacred in times of the greatest party rage, not only in politics, but in religion. The betrayer of it has forfeited all the respect of society and of fellow men. Into what companies will he hereafter go with an unembarrassed face, or the honest intrepidity of virtue? Men will watch him with a jealous eye ; they will hide their papers from him and lock up their escritaires. He will henceforth esteem it a libel to be called ‘ a man of letters,’ *homo trium literarum*,

(punning on the Latin *F-u-r*, 'a thief.') But he not only took away the letters from one brother, but kept himself concealed till he nearly occasioned the murder of the other. It is impossible to read his account, expressive of the coolest and most deliberate malice, without horror."

This seems to me a malicious tirade, for the letters were public in their nature and vitally affected the people whom Franklin represented. Burke, Priestly and Jeremy Bentham were there, and so was Franklin. "Alone in the recess," writes Bentham, "he stood, remaining the whole time like a rock, in the same position, his head resting on his left hand, abiding the pelting of the pitiless storm." "According to all the reports," said a biographer of Loughborough, "this powerful invective had a result as instantaneous and complete as any that the splendid art of oratory can boast. The lords applauded in a rapture of delight the eloquent and burning vituperation which he poured forth on the head of the unfortunate petitioners' agent and, in the excitement of the moment, voted their petition to be groundless, vexatious and scandalous. An unhappy excitement! For there was then kindled, from the firebrand which Wedderburn threw with too skillful an aim, the most disastrous war that ever marred the fortunes, or scattered the hopes of England.

He had realized too completely the description of the Roman satirist, '*orator quoque maximus et jaculator.*' Franklin, who united in his exterior the simplicity of a Quaker with the calmness of a hermit, felt to his inmost soul the flagrant contempt which that harangue stamped upon him, and nourished an anger more concentrated than that of his countrymen (who burnt the effigy of the abusive orator), and more lasting. 'An illiberal lawyer,' he writes, 'was hired and permitted to abuse the petitioners and their agent in the grossest terms scurrility could invent.' He affected in conversation to regard the philippic as the 'idle air one hears, but heeds not,' and said that he despised the speaker heartily, that so mercenary a man would have said as much in favor of the devil, if he had been well paid for it, as he had said against him. But the speech rankled in his heart; it is alluded to repeatedly in his correspondence; and seven years afterwards, on the termination of the war, so triumphant to America and so humiliating to Britain, he signed the articles of peace, being then ambassador at Paris, in the identical dress which he had worn when inveighed against by Wedderburn. 'He had stood,' said Dr. Priestly, 'conspicuously erect during the harangue, and kept his countenance as immovable as if his features had been made of wood. But the suit

of Manchester velvet, which he then wore, was again put on at the treaty of Paris. 'These clothes had never been worn since or afterwards. I once intimated to Dr. Franklin the suspicion, which his wearing these clothes on that occasion had excited in my mind, when he smiled without telling me whether it was well or ill founded.' Those articles of peace were the tablets of revenge, on which, like the Loredano of Italian history, he wrote his acknowledgment that the debt of retribution was satisfied; nor does the Venetian senator appear to have been more luxurious in his hate than the philosopher of Philadelphia.'

It is an interesting fact that the Irish people, who at that time had a parliament of their own, sympathized strongly with the American cause. In the current accounts of their meetings it appears that they resolved to invite to seats on the floor sundry Americans, who happened to be in Dublin, upon the ground that they were members of the "independent parliaments of the American States." George III. had made haste to put down the great Whig families, whose devotion to constitutional government had resulted in placing his dynasty on the throne, and to elevate the Tories. The Earl of Chatham was driven from power. He had always been a friend of the Americans. Lord Bute, of whom many scandalous stories were told, became

minister, but he was soon driven from the active exercise of government, by the uproar which John Wilkes raised in his celebrated publication, "The North Briton." Grenville succeeded Bute, and, as to the Americans, was as bad as Bute. Rockingham succeeded Grenville and Lord North succeeded Rockingham, all Tories, and these successive ministers of that party essayed to break by force, and show of force, the independent front of the colonists. They enacted the navigation laws. These were made to destroy the opulent trade then existing between America and the West Indies. When the New England shipper would send out his vessel to Cuba, laden with the products of his State, and exchange his cargo for rum or molasses, or other products of the tropics, you can understand his anger, when his ship was captured by a British vessel and carried before an admiralty court in one of the ports, and sold, and the proceeds either paid into the treasury, or divided out as prize money between the officers and crew of the ship making the capture. The famous stamp act, too, was enacted. The Americans rose as one man to resist it. It was enforced but one year, and under it about eighty pounds were collected, and to collect that eighty pounds cost the British government three thousand pounds.

The collectors were threatened by the patriots. They were told if they attempted to collect the tax they would be ostracised. In many places the stamped papers were taken from them by the indignant populace, torn up and the collectors run off. A certain collector in Connecticut came riding a white horse, to lay down his commission, followed by a crowd of his neighbors, shouting with joy at his determination. He declared, rather profanely, that he thought himself "like death on a pale horse with all hell following him." Grenville had said that he "had no idea the stamp act would be resisted," but he knew nothing of the American temper. The British Government demanded, also, that the colonists should furnish free quarters for their soldiers, vinegar, food, cooking utensils and liquors, of which, in the king's army, the consumption was great. This added to the excitement. A tax on tea was also imposed. The Americans met that by resolving to buy no tea. The business of the merchants, who consigned tea to this country, was ruined. The British Government attempted to relieve them. While it continued to require the Americans to pay the tax, they gave such drawbacks to merchants who sold, that they could afford to sell tea in this country at less than it originally cost them, and it was offered to the colonists at much

cheaper rates than ever offered before the tea tax was enacted. But the patriots would have it at no price. Then a cargo of tea was sent to Boston harbor. You all remember the story of the "Boston Tea Party," where a number of Americans disguised themselves as Indians, went aboard the ship, broke out the cargo and threw all the tea into the river. Then followed the Boston port bill, the bill taking away the charter of Massachusetts, and several other Acts of the British parliament of a like character, which were termed "The Intolerable Acts." This legislation exhausted the patience of the American people. The cry went abroad throughout the land, "The cause of Boston is the cause of us all." A continental congress was called to assemble in Philadelphia on September 5, 1774. This congress defined the rights of the colonists, and also declared that if the British Government sought to enforce its "Intolerable Acts" by force, they would be met by force. But this was not all the British Government did at that time. It enacted what was called the Quebec Act, and that Act proposed to extend the jurisdiction of Canada, in governmental affairs, over all that portion of our country which is east of the Mississippi and north of the Ohio. In other words, it proposed to make all the New England and Middle States a part of the province

of Canada. This last enactment was particularly obnoxious to New England, because at that time the French population of lower Canada, as they are to this day, were Catholics, and New England was as strongly Puritan.

No enactment could have been more alarming to the descendants of the Pilgrim Fathers. They predicted that the Catholic religion and Catholic authority would prevail in New England as it did in French Canada, where, by the treaty of Paris in 1762, to which I have previously referred, the British Government bound itself to permit the free exercise of the Catholic faith, and to preserve all the rights of the various Catholic institutions, a treaty which it has scrupulously kept to this day.

A second continental congress was called to assemble on the 10th of May, 1775. On that day Ethan Allen and the Green Mountain boys took by surprise the fortress at Ticonderoga. When asked by the trembling British officer, whose slumbers had been rudely broken, by what authority he demanded a surrender, Allen replied, "In the name of the great Jehovah and the Continental Congress."

In the meantime, General Gage was in Boston with a fine British army. He had, besides, a powerful squadron of the navy to support him. His troops

included some of the most famous regiments of the British army. The Minute Men of New England at that time constituted the principal available force of the continental patriots. Gage sent out a military expedition to Salem to seize some powder, which had been gathered there by the provincials. He was successful. A short time thereafter, on the night before the 19th of April, 1775, he sent a strong party of British soldiers, the flower of his army, the famous Light Infantry corps among them, to seize the depot of supplies, flour, powder and the like, which had been collected at Concord. Paul Revere rode swiftly through the night to alarm the patriots, and on the 19th of April, 1775, the embattled farmers, whose "shot was heard around the world," met the British at Concord. A short fight ensued. The undisciplined countrymen were compelled to give away before the destructive fire of the British regulars. Several were killed and wounded. The British started on their return, but the alarm had gone forth, the church bells were rung, and the people gathered from every hamlet and outlying farm, and from behind trees and fences, and every point or vantage, the infuriated Americans directed against their columns a continued and destructive fire, which demoralized them, killed many of their number and

wounded many more, and had it not been that Gage sent from Boston a heavy force for the purpose of extricating his troops from their desperate condition, the entire force would have been compelled to lay down its arms and surrender at the discretion of the colonists. The first shot of the 19th of April, 1775, determined the political union of the American States, which survives to this day. The continental congress, as we have seen, had declared that if force was used to coerce, that it would be met with force. This implied that the colonies would unite to meet force with force. The condition had offered itself. Force had been used, life had been lost, resistance had been offered, the Americans had been victorious, and thus political union was cemented by the blood of those simple New Englanders, which stained the green at Concord ; and that union lives and survives to-day, perpetuated more definitely and effectively by the legal union of our written Constitution, and, under its benign authority, we have become the wealthiest and strongest, the least trammelled and fettered people on earth.

LECTURE II.

In our last lecture we considered the more important incidents which occasioned the collision between the Massachusetts patriots and the British troops at Lexington and Concord, on the 19th of April, 1775. The thrilling intelligence of the conflict went forth throughout the land with the speed of the fiery cross in Scott's noble poem. It echoed along the beautiful shores of the Hudson, immortalized in the melodious prose of Washington Irving. It traversed the Middle States and lighted fires of patriotism at Philadelphia, Baltimore, and Annapolis. It kindled the fervid Americanism of the Carolinas and Georgia. Westward across the lovely Virginian valley, watered by the historic stream, whose crystal tide in the terminology of the Indian is "Shenandoah," "the daughter of the stars," the inspiration took its course.

The stark riflemen of the mountains rallied to the gallant Morgan, and in twenty-one days marched from Winchester to Cambridge—a famous corps, whose achievements modified the tactics of European armies,

suggested the Light Infantry of Frederick and the *tirailleurs* of Napoleon. The news crossed the Alleghanies and followed Daniel Boone amid the primeval forests of Kentucky, and a hunters' encampment, on the present site of that beautiful city in the famed regions of the Blue Grass, was named Lexington in honor of the intrepid New Englanders, who had taken instant counsel of their courage, avenged the slaughter of their neighbors and driven in panting haste the crack regiments of the royal army. That the blood of their northern brethren was shed, was known to Georgians on the 10th of May, and the next night saw our State added to the union of the colonies. Noble Wimberly Jones, Joseph Habersham and Edward Telfair broke open the magazine of the king in Savannah and took therefrom five hundred pounds of gun powder for the patriot arms. Counties of the State bear the names of each of these great Georgians.

Ticonderoga, you will remember, was captured on the 10th of May. This fortress had cost the British Government eight millions sterling, forty millions of our money. The French minister wrote to his government from London that the Americans had shown in succession that they knew how to argue, to negotiate and to fight.

But the American patriots were not friendless in England. The eldest son of Lord Chatham, and brother of William Pitt, was *aide de camp* of the Governor of Canada. When ordered to take arms against the Americans he at once resigned. The gallant admiral, Keppel, afterwards drowned at the sinking of the line-of-battleship, "Royal George," in Portsmouth harbor, a most distinguished naval officer, stated that he was willing and anxious to serve the king against the hereditary enemies of his country, but he was unwilling to bear arms against his brethren in America. It is related that James Edward Oglethorpe, founder of the colony of Georgia, and then the lieutenant-general of the British armies, refused the command of the forces sent against the Americans. Many of the most distinguished families of the middle classes in Great Britain wore mourning openly, declaring that they did so for brothers, who had been slaughtered by the British troops. The recorder of London was seen in mourning by a friend, who asked him if he had lost a relative. "Yes," said he, "many brethren at Lexington and Concord." Lord Effingham, a distinguished military officer, resigned because he did not intend to fight the colonies. He was publicly thanked by the merchants of London and Dublin. A county in this State bears his name in honor of his

devotion to the cause of the patriots. The Duke of Gloucester, brother of the king, was a friend to the colonies. He was, however, a man of weak character, but his advocacy of our cause, secured for us one of our strongest and most illustrious friends. He had gone over by permission of the French king to inspect the military fortress at Metz, and he was received at that place by a number of French officers. Among them was a young man of immense fortune and distinguished ancestry, whose chivalric nature prompted him at all times to espouse the cause of the oppressed. At a banquet, at which Gloucester was present, the young officer listened with great attention to the story of the Americans, and after a time became so fired with the justice of their cause and the opportunity to serve millions of brave and misgoverned people, that he sought permission from his king to tender his services to the Americans. This was finally granted and thus we acquired the assistance of Marquis de LaFayette, the friend of Washington, and one of the most conspicuous figures, both of the American and the French revolutions.

John Wesley thought, and declared, that silence on his part would be a sin against the Lord. He knew something of the character of the men who were to take part in this struggle, because he had been

with General Oglethorpe in the settlement of Savannah. It is true that in some respects his career at Savannah was not altogether fortunate. He fell in love, as a young Protestant clergyman may sometimes do, and it is said broke his plighted troth to the lady of his affections. She sued him and he left the colony, some thought, under a cloud. But this was in his early life. He had emerged from the shallows and wretchedness of that period, and had become one of the most illustrious and successful of evangelists. He wrote to Dartmouth and Lord North, then at the head of the British ministry, "I am a high churchman, the son of a high churchman, brought up from my childhood in the highest notions of passive obedience and non-resistance, and yet in spite of my long-rooted prejudices, I can but think them an oppressed people, that they have asked for nothing more than their legal rights, and that in the most modest and inoffensive manner that the nature of the thing would allow, and in view of this, I ask, is it common sense to use force toward America? Whatever has been permitted of this kind, they will not be frightened, and they will not be conquered easily. Some of our valiant officers say two thousand men will clear America of these rebels. Nay, nor will twenty thousand, be they rebels or not. Nor, perhaps, treble that number. They are

strong, they are valiant. Every one of them is an enthusiast for liberty. In a short time they will understand discipline as well as their assailants. But you are informed that they are divided amongst themselves. So was poor Rehoboam informed concerning the ten tribes. So was Phillip informed concerning the people of the Netherlands. No, they are united. They think they are contending for their wives, their children and their liberty. Their supplies are at hand. Yours are three thousand miles off. Are we able to conquer the Americans, suppose they are left to themselves? And we are not sure of this, nor are we sure that all our neighbors will stand stock still.”

It would have been well for Lord North and the British ministry had they heeded the admonitions of such men as the great thinkers and philanthropists, who spoke in behalf of the Americans, but they disregarded them all. It was with them a question of party spirit. And while the mass of the British people were favorable to our cause, while the Lord Mayor and the Common Council of London waited upon the king in person and presented a petition and protest against the attempt to coerce the colonies, the British ministry never faltered in that determination, until seven years' lavish expenditure of blood and treasure satisfied them that our three million of people armed

in the holy cause of liberty "were," as Patrick Henry declared, "invincible by any force their enemies can send against them."

On the 31st of May, 1775, more than a year before the Declaration of Independence was signed, the patriots of Mecklenburg county, in North Carolina, signed the celebrated Mecklenburg Declaration.

In June, 1775, on the advocacy of John and Samuel Adams, in the Continental Congress, Washington was made commander-in-chief of the American forces. He had appreciated the importance of the action of the American people from the first. It was significant that he appeared at all the debates of the Continental Congress, of which he was a member, in full uniform, indicating thus that he foresaw an appeal to arms was inevitable. There can be no doubt that Washington is the most interesting character of that time. There can be no doubt that of all the men who figured in that struggle, his fame is the brightest and will last the longest. He was a man of whom it may be said, that Providence had designed him especially for the work of liberation of the American people. He was at this time forty-four years of age. He was born in 1732, as you all know, on the 22d of February. He was over six feet high, broad of chest, very strong and active, accomplished in all athletic exercises, a noble

horseman, and his out-door life as a surveyor, soldier and planter had hardened him to every character of exposure. His countenance was grave, but not incapable of being illumined by a smile, of whose charm all his contemporaries agree. His eyes were deep blue. He was a man remarkable for his reserve and secrecy, and his services in the wilderness against the Indians had made him singularly vigilant. He was passionate in his nature, but his passions were entirely under the control of his will. It was said of him that he was noted in his youth for the attachments great men formed for him. Lord Fairfax, an English nobleman, who lived in Virginia, was one of Washington's most intimate friends. There was no doubt whatever among the colonists or their leaders that Washington, of all men, was the most appropriate for the command of the American forces. He was the only officer who emerged from the Braddock campaign with increased renown, and the beautiful town of Washington, in our own State, was named for him before the Revolution, in honor of the military reputation he won in that ill-fated expedition. He believed strongly in the Divine power, and of this belief Mr. Bancroft, in his famous history of the United States, declares "it not only illumines the spirit, but it inspires the will."

Washington was a man of action, not of theory. Integrity was the law of his existence. The devotion with which he attached himself to the cause of his country is evidenced by the fact that he wholly refused to take any pecuniary compensation whatever for the military services he rendered during the seven years of the Revolutionary struggle. There have been men of greater genius in statesmanship and war, but none of the human race has possessed a judgment more unerring or a character more justly balanced. Washington accepted his great and hazardous trust and forthwith mounted his horse and rode to Cambridge. There are interesting stories preserved of how his grand Virginian bearing, his beautiful thoroughbreds and his black servants in livery, affected the curious minute men, who were better accustomed to the plain simplicity of Generals Artemus Ward and Israel Putnam.

He was now, with his raw levies, in the presence of the British army, behind the fortifications of Boston, and it is certain that no general was ever confronted by greater military difficulties. His was not an army, but a community in arms, and Washington himself declared that "their spirit had exceeded their strength." In the great number of able-bodied men, active, zealous in the cause and of unquestionable courage, he saw the materials for a good army. "But," said

Bancroft, "the habit of inquisitiveness and self-consideration stood in the way of military discipline. The men had never learned implicit obedience and knew not how to set about it." At one time he had but a few charges of powder for each musket. But the strong and commanding military character of Washington soon made itself felt, and the descendants of the Pilgrims were soon working steadily on the intrenchments, even on Sunday. "There are many things amiss in this camp," said the chaplain, Emerson, "yet upon the whole God is in the midst of us."

Bad as was the condition of the patriot army, the Continental Congress could not help matters. Although that body contained many of the foremost men of our race, its feebleness was pitiable. It was not even a legislative body, the delegates were merely committees from twelve independent colonies. For the hall they occupied they were indebted to the carpenters of the city of Philadelphia. They had no foot of land on which their decisions could be made effective. They had no officer to carry them out, and no power to appoint one. Neither soldier nor officer could they commission. They had no money and no authority to borrow or collect any. There was no president. There was but one house of congress. There were no means of raising an army except by the

voluntary action of the separate colonies. The body had no authority to make laws and no judiciary by which they could be enforced.

The patriots up to this time protested that they had no purpose to separate from Great Britain. "I never heard from any person the least expression of a wish for separation," Franklin had said to Lord Chatham. In October, 1774, Washington himself had written: "No such thing as independence is desired by any thinking man in America," and Jefferson declared that before the 19th of April, 1775, "he never heard a whisper of a disposition to separate from Great Britain," and a month after Washington had assumed command of the Continental Army around Boston, Congress authorized Richard Penn to present a last petition to the king for a redress of grievances. Penn was one of the proprietaries and an ex-governor of Pennsylvania. He hastened on his mission, but he was treated with disdain by the British ministry. The king would not see him, and George III. eagerly showed his determination, to use his own expression, "to force the deluded Americans into submission." It is but just, however, to the people of England to record that when the king's proclamation denouncing the Americans and their friends as traitors was read at the Royal Exchange it was denied the customary

ceremonies by the merchants assembled, and was received with a general hiss. Thus, notwithstanding the reluctance of the patriots to separate from the mother country, events in England, as in America, were furthering the progress of independence. The first flag was hoisted by the American army on New Year's day, 1776, but the flag itself, even at that late date, yet indicated the attachment of the Americans to English ideas and English symbols. While it had the stripes, which now ornament the ensign of our country, in place of the stars, it had the crosses of St. Andrew and St. George. About this time Tom Paine's famous pamphlet, "Common Sense," was issued. It was written in a simple and attractive style, was submitted by its author to Franklin and Rush, who advised its publication, and, read by everybody, it seemed to inspire the minds of Americans everywhere with the same determination at the same moment; that the separation of the colonies from the mother country was the inevitable necessity of the situation.

The enemies of Great Britain in Europe had foreseen this fact for some time. France, using the name of a fictitious firm in Paris, had been shipping arms, money and supplies to the American States, and shortly thereafter, on June 1, 1776, Richard Henry

Lee, for the State of Virginia, introduced in the Continental Congress a resolution looking to the complete independence of the American States. It was seconded by John Adams. A committee on a Declaration of Independence was appointed. It was composed of Thomas Jefferson, John Adams, Benjamin Franklin, Roger Sherman and R. W. Livingston. To Jefferson was committed the duty of preparing the declaration.

This illustrious American was regarded as the chairman of the committee. His masterly ability, the power and influence of the noble commonwealth he represented, the strong hold he had acquired on the hearts of his colleagues, his captivating modesty and his exquisite grace of manner had combined to designate him for a duty which shall make his name illustrious as long as freedom is valuable to man. His trust and confidence in the people was not surpassed, if, indeed, it was equalled, by any of his contemporaries, and the confidence was returned to him in no stinted measure. Enthusiastic by nature, his contemplative and serene philosophy was not equalled in the revolutionary period save approximately perhaps by the practical and inductive powers of Franklin. With tastes elegant and refined, susceptible to the charms of music, an aristocrat by birth and education, a trained and successful lawyer, he nevertheless became the tutelar

saint of Democracy. His various studies comprehended the literature of the classics and of the exact sciences ; devoted to the teachings of nature ; an enemy of the bigot and fanatic ; he has been charged with hostility to religion, but it is declared by the historian that he believed more than he himself was aware of. He was no orator, no speech of his is recorded, but no man on the continent was better qualified for the fearless announcement of the wrongs, the resentments and resolves of the American people.

“ He was,” writes Bancroft, “ no visionary devotee of abstract theories, which, like disembodied souls, escape from every embrace, but the nursling of his country, the offspring of his time, he set about the work of a practical statesman, and his measures grew so naturally out of previous law and the facts of the past, that they struck deep root and have endured.”

Late in June, 1776, this great Virginian, without reference to book or document, drafted the Declaration, the most famous instrument since Magna Charta, nay more, the most famous of all that is not encompassed by the halo of the Divine. Submitting the paper separately to Benjamin Franklin and John Adams, they had to suggest but trifling alterations, thus enabling the committee to report on the 2d of July, and for two succeeding days it was discussed in

the spirit of that independence which Congress had resolved to accomplish, but with the most careful scrutiny of its style and its statements.

After Jefferson, more than to any other member of the congress, for the Declaration and its adoption, our country owes gratitude and honor to John Adams. Three years the junior of Washington, of Puritan stock, carefully educated, as are all the children of his commonwealth, a graduate of Harvard College, a trained and successful lawyer, he came to the side of Jefferson at the supreme moment of the revolutionary crisis. It has been said of him that he, too, was eminently fitted for the part he was to perform. He had been "rocked in the early storms of the controversy." He had long been connected with colonial remonstrance against the aggressions of Great Britain. So closely was he familiar with every grievance of the colonies, it was related of him, when a very aged man, that he could recite all the acts of parliament affecting the colonies, with an accurate statement of their titles and contents, and as precisely the memorials and remonstrances from the colonies, with which these aggressions were met.

The Congress of the Revolution sat with closed doors. We have no exact account of the utterances of its members while the Declaration was under

discussion. Years afterward the patriotic divination of Daniel Webster attributed to John Adams what he must have uttered in that memorable debate. Let us, with Mr. Webster, bring before us the Congress itself, which was about to decide the question momentous with the fate of our country. Let us "survey the anxious and care-worn countenances, let us hear the firm-toned voices of this band of patriots." The resolute and unselfish Hancock was the president; Dickinson, of Pennsylvania, for a long time had been the rival in Congress of John Adams. He knew the opinions of the great son of Massachusetts, and he rose to combat those opinions and to justify himself. Skillfully he appealed to the fears of the members and to the impressions which their education as British subjects still preserved in large measure upon the opinion of the house. He "shuddered" before the responsibility, he depicted the weakness of the American forces and the utmost strength of England. He portrayed our cities burning, the pleasant fields of the colonies whitened and bleached with the bones of their owners, and their limpid streams running red with the blood of their children. The reply of Mr. Adams was adequate to the occasion. Finally he exclaims: "Sir, you and I know the uncertainty of human affairs, but I see—I see clearly—through this day's business.

You and I indeed may rue it. We may not live to the time when this Declaration shall be made good. We may die, die colonists, die slaves—die, it may be, ignominiously on the scaffold. Be it so. Be it so. If it be the pleasure of heaven that my country shall require the poor offering of my life, the victim shall be ready at the appointed hour of sacrifice, come when that hour may. But while I do live let me have a country, or at least the hope of a country—and that a free country. But whatever may be our fate, be assured that this Declaration will stand. It may cost treasure ; it may cost blood ; but it will stand, and it will richly compensate for both. Through the thick gloom of the present I see the brightness of the future, as the sun in heaven.”

What an inspiration to the youth of our country to know that such a man was of our blood. Such was the spirit of the men who accomplished that, which has resulted in the great plan of government which it will be your privilege to study, and your duty to master. The Declaration was adopted. Fifty years had passed, the Revolution had been fought, American independence had been accomplished, the valor of the American people had been demonstrated against savage foes in America and in Africa. The gallant sailors of the American fleet had carried our colors in triumph

on the sea, in battle with Great Britain. Constitutional liberty had been assured, and the country was on the high road to its present prosperity. When on the Fourth of July, 1826, the beams of the rising sun were saluted with detonations of artillery and the joyful cries, the bonfires and exultations of a grateful people, it was whispered with white lips, at Quincy and at Charlottesville, that Adams and Jefferson were dying.

In that sturdy New England town, and in that beautiful village, resting at the foot of the mountain, where the great Virginian had tranquilly and usefully occupied the evening of his life, there the acclamations of the people were hushed, and, overwhelmed with grief, they awaited the expiring sighs of these sages and patriots of the Revolution. How noble is the thought, how exulting the reflection, that these great men survived to the fiftieth anniversary of Independence Day, and when their work was done, its fruition known and enjoyed by increasing millions of their countrymen, "they sank to rest with all their country's wishes blest." It is related of Adams on the day of his death that, hearing the noise of bells and cannon, he asked the occasion. On being reminded that it was Independence Day, with feeble and faltering voice he exclaimed: "Independence forever." And they tell it

of Jefferson, as the last sands of life were falling, he whispered that, had it not been presumptuous, he would have indulged the hope, if it pleased God, that he might live to see the day he had helped to make immortal, and once more look abroad on his country on the great day of liberty. "Heaven," said Mr. Webster, "in its mercy fulfilled the prayer; he saw the sun; he enjoyed its sacred light; he thanked God for these mercies and bowed his aged head to the grave."

I have stood by the tomb of Jefferson, reared by his loving country, and on it is inscribed "Thomas Jefferson, the Founder of the University of Virginia, and the Author of the Declaration of Independence." No nobler epitaph was ever written. I commend to you, gentlemen, the study of the Declaration itself. Its literary merit is unsurpassed.

It is deplorable, I think, that in our State we have in large measure abandoned the legitimate celebration of Independence Day, and the custom universal during a large part of our country's life, of reading on that day the Declaration of Independence. By returning to that time-honored observance, we will not only kindle anew our love of country and our pride in the glories our fathers won, but we will do deserved honor to the great men who took part in its incipient struggles, and whose patriotism and valor insure the

blessings of popular government to ourselves and our children to the latest times.

In order that we may now perceive the point in the succession of events essential to the proper understanding of our country's Constitution, at which we have arrived, it will be only necessary to recite the last clause of the immortal Declaration itself :

“ We, therefore, the representatives of the United States of America, in general Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by authority of the good people of these colonies, solemnly publish and declare that these United Colonies are, and of right ought to be free and independent States ; that they are absolved from all allegiance to the British crown, and that all political connection between them and the State of Great Britain is and ought to be totally dissolved, and that as free and independent States they have the full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes and our sacred honor.”

LECTURE III.

The struggle for liberty by the American people began, as we have seen, with "the shot heard around the world" at Concord, on the 19th of April, 1775. It practically ended on the 19th of October, 1781, when the troops of Lord Cornwallis, with their bands playing an old air, called "The World Turned Upside Down," marched out of their works at Yorktown, and, as prisoners of war, decently piled their arms on the ground in the presence of the victorious French and American armies. The intervening years were teeming with the possibilities of America, yet, save for its last seven months and eighteen days, the war was fought without any compact between the States and with no government, but the indefinite and vacillating authority exercised by the Continental Congress. This Congress itself did not seem to claim a definite constituency. In its more formal enactments the Congress described itself as "The Delegates Appointed by the Good People of these Colonies," and when it presented that great instrument, which has well been

called the Magna Charta of American Liberty, while it was termed a "Declaration by the Representatives of the United States of America in Congress Assembled," yet the words were added, "By the Delegates Appointed by the Good People of the Colonies." After the Revolution, in the case of *Penhallow vs. Doane*, the Supreme Court states the character of the Revolutionary Government: "The powers of Congress were revolutionary in their nature, arising out of events adequate to every National emergency, co-extensive with the object to be attained. Congress was the general, supreme and controlling council of the nation, the center of force and the sun of the political system."

"The danger being imminent and common, it became necessary for the people to coalesce and act in concert in order to divert or break the violence of the gathering storm. They accordingly grew into union and formed one great political body, of which Congress was the directing principle and soul." But, while these causes for union were all-controlling, the Government it produced was feeble beyond debility. Nearly a year before the adoption of the Declaration, with the sagacity and prescience, for which his fame is illustrious, Benjamin Franklin had submitted to Congress a draft of articles of confederation, which proposed a union "until reconciliation with the mother

country," and if that should fail, a perpetual union, but it was ignored. When, however, the determination for independence had mastered the minds of the delegates, they realized the need of a binding compact, and on the 11th of June, 1776, the day the committee for preparing the Declaration of Independence was designated, Congress resolved that a committee be appointed to prepare and digest a form of confederation. It was appointed on the next day, and on the 12th of the same month submitted a scheme in the handwriting of Dickinson, of Pennsylvania. After much debate, on the 20th of August, 1776, Congress, in committee of the whole, reported a new draft, but it was not until the 15th of November, 1777, that this plan, with certain amendments, received its final approval. The articles were eloquently commended for adoption to the States by a committee appointed for that purpose. There were, however, many reasons which caused the States to hesitate. The more important of these were disputes with regard to State lines, and especially the controversy about the disposition of the unexplored empire of crown lands, which extended indefinitely to the westward of the States, and, as some claimed, to the Pacific ocean.

In the meantime, nothing but the incomparable patience, fortitude and courage of Washington and the

starving army, kept alive the hopes of the patriots. The Congress was without credit. It had no means to collect taxes. At the beginning of the year 1779 it had one hundred and six millions of Continental dollars in circulation. They were worth twelve and a half cents apiece. In April they were worth five cents ; at the end of the year a dollar was worth less than two and a half cents. A common expression was, a wagon load of money would scarcely buy a wagon load of provisions. Then may have been heard for the first time the expression, "Not worth a Continental." Such are the fruits of government where there is no power to enforce a fiscal policy, and to compel each citizen to bear his proportion of its burdens. While this was the pitiable condition of our finances, and while Congress was supplicating France for loans, the American people, in proportion to population, were richer than the people of France. But if the condition of the treasury was bad, that of the army was worse. The soldiers had not been paid for five months. They were receiving from one-half to one-eighth of a ration of meat. Washington made an ineffectual appeal to Pennsylvania. "The great man," wrote Greene privately to the president of Pennsylvania, "is confounded at his situation and appears to be reserved and silent. Should there be a want of

provisions, we cannot hold together many days in the present temper of the army." On the 25th of May, 1780, two Connecticut regiments, naked and starving, paraded with their arms and declared their purpose to go home to obtain food. "Nothing stopped them," writes a contemporary, "save the influence of the commander-in-chief, whom they almost adored." To his friend, Joseph Jones, a member from Virginia, Washington wrote in the same month: "Certain I am, unless Congress is vested with powers by the several States competent to the great purposes of war, or assumes them as matter of right, * * * our cause is lost. We can no longer drudge on in the old way. * * * One State will comply with a requisition of Congress, another neglects to do it, the third executes it by halves, and all differ either in manner or matter, or so much in point of time that we are always working up hill."

"This, my dear sir," said the noble patriot, "is plain language to a member of Congress, but it is the language of truth and friendship. I see one head gradually changing into thirteen; I see one army branching into thirteen, which, instead of looking up to Congress, as the supreme controlling power of the United States, are considering themselves as dependent on their respective States, * * * and I am fearful

of the consequences." Conventions of the States, called by Congress, attempted at one time to regulate prices, and at another to solidify the government and render definite its powers, but in neither purpose were they successful.

At this time a young man, a student at Kings College, in New York, when the war broke out, began to bring the marvelous powers of perhaps the most resourceful and constructive intellectuality among American statesmen, to evolve order from the chaos of our affairs. This was Alexander Hamilton. On another occasion it will become appropriate to discuss his character more at large. At that time William Pitt and Charles James Fox were the young parliamentary giants of Great Britain. Of Pitt, Bancroft remarks that "Hamilton excelled him in vigor, consistency and versatility," and that the style of the latter in debate and writing "was devoid of ornament, attractive only by strength of thought and clearness of expression like that of Fox." At this time Hamilton was, and for three years and a half had been, the ablest and most trusted confidential secretary of Washington, and on September 3, 1780, he wrote to Duane, a member of Congress from New York: "We must at all events have a vigorous confederation, if we mean to succeed in the contest and be happy

thereafter. Internal policies should be regulated by the legislatures. Congress should have complete sovereignty in all that relates to war, peace, trade, finance, foreign affairs, armies, fleets, fortifications, coining money, establishing banks, imposing a land tax, poll tax, duties on trade and the unoccupied lands." The foreknowledge of the inevitable evolution of our government by this miracle of an aide-de-camp will seem to you to rival prophecy itself.

This remarkable letter was written from his tent, while the writer was surrounded by the ragged and hungry soldiers of Washington. Congress was toiling for the future with prophetic inspiration like that of Hamilton, and at the same time recommended that "the western lands, which might be ceded to the United States, should be settled and formed into distinct republican States that should become members of that federal union and have the same rights of sovereignty, freedom and independence as the other States."

On October 22d, Washington wrote almost piteously to the friend of his youth, George Mason, of Virginia: "We are without money and without provisions and forage, except what is taken by impress; without clothing, and shortly shall be, in a manner, without men. In a word, we have lived upon expedients

until we can live no longer. The history of this war is the history of temporary devices instead of system, and economy which results from it. If we mean to continue our struggle * * * the amplest powers must be lodged in Congress as head of the federal union—adequate to all purposes of war. Unless these things are done, our efforts will be in vain.” On the 11th of September, Glover, of Massachusetts, wrote home: “It is now four days since your line of the army has eaten a mouthful of bread. We have no money, nor will anybody trust us. The best of wheat is at this moment selling in the city of New York for three-quarters of a dollar for a bushel, and your army is starving for want.”

It is plain that these conditions could not be long endured, and it is not surprising, therefore, that on the night of January 1, 1781, some of the Pennsylvania line, mainly new-comers from Ireland, mutinied and marched to Princeton, carrying with them six pieces of artillery. While these soldiers could no longer suffer the extremities of hunger and cold, they were yet patriotic enough to seize the spies whom Sir Henry Clinton sent among them to encourage mutiny, and these were promptly hanged. The New Jersey troops, who had a large proportion of foreigners in their ranks, were also threatening in

their demonstrations, but, among the Continentals, there were thirty regiments from New England, and these Washington marched over the frozen roads and quelled the mutiny. LaFayette, writing home to his wife, recorded: "No European army would suffer one-tenth part of what the American troops suffer. It takes citizens to support hunger, nakedness, toil and the total want of pay, which constitutes the condition of our soldiers, the most patient that are to be found in the world." Every effort was now directed by the patriots to induce the acceptance of the Articles of Confederation, which had been pending since 1776. With the action of Maryland, the United States of America, each and every one of the thirteen adopted, confirmed and ratified their confederation and perpetual union.

The United States of America now consisted of thirteen truly sovereign States. Their "firm league of friendship," as it has been called, was described in the preamble as a "Perpetual Union," but it was soon discovered to be a union in name, and not in fact or force. Writing to Duane the year before, Hamilton had with absolute precision indicated its fatal defect. "It is defective and requires to be altered. It is neither fit for war nor peace. The idea of an uncontrollable sovereignty in each State

will defeat the powers given to Congress and make our Union feeble and precarious." It was indeed fortunate that after Yorktown, no British ministry could be framed which would support George III. in his yet unshaken purpose to subjugate the American States. Peace was formally declared on September 3, 1783, Great Britain, with malign but skillful diplomacy, refusing to recognize the independence of the United States, but recognizing the independence of each of the States, named in their successive order. It is not difficult to perceive that the British statesmen recalled the fable, in which it is narrated that the woodsman, who could not break the fagot, found it an easy task, when he essayed to break the separate twigs. It is even more fortunate that the articles of confederation, which, although not intended to do so, really restricted such powers as the Continental Congress had exercised in an irregular manner, were not adopted until but a short time before the surrender of Cornwallis. Bad as was the condition of the American affairs under the Continental Congress, it must have been infinitely worse under such emasculated congressional authority as the Articles of Confederation permitted to survive. The sole value of the Confederation, notwithstanding the high hopes of its advocates, existed merely in the

fact, that it was an effort at union. No man saw this more clearly than Washington himself. On the day before it was adopted, he had indicated to a member of the Virginia legislature the "necessity of a controlling power to regulate and direct all matters of general concern." "The great business of war," he said "never can be well conducted, if it can be conducted at all, while the powers of Congress are only recommendatory. Our independence, our respectability and consequence in Europe, our greatness as a nation hereafter, depend upon vesting Congress with competent powers. That body, after hearing the views of the several States fairly discussed, must dictate and not merely recommend." While appreciating the fact that there was in certain quarters a fear that he might be laying his plans for a military dictatorship, he did not hesitate to reiterate his views. Jefferson, Wythe and Pendleton were engaged in preparing a code of laws for Virginia, and Washington urged upon these, the greatest civilians of his noble commonwealth, the defects of the Confederation and the immediate necessity for power in the central government, to make its authority effective upon sluggish and recalcitrant States. "Danger," said he, "may spring from delay ; good, from a timely application of a remedy. The

present temper of the States is friendly to the establishment of a lasting union ; the moment should be improved ; if suffered to pass away, it may never return ; and, after gloriously and successfully contending against the usurpations of Britain, we may fall a prey to our own follies and disputes.” It was, perhaps, essential in that period, when the States were just emerging from their conflicts with the crown, and when the feeling of reliance on domestic legislation and resistance to external authority was universal, for Washington to asseverate in this famous paper : “ It would give me great concern, should it be thought of me that I am desirous of enlarging the powers of Congress unnecessarily, as I declare to God my only aim is the general good ;” but, when, after the lapse of more than a century, we look dispassionately at the events of those days, we cannot doubt the wisdom and patriotism of his views. A writer in the *American Museum* of 1786, whose name I do not know, has afforded this concise analysis of the Articles of Confederation : “ By this social compact, the United States in Congress have exclusive power for the following purposes, without being able to execute any of them : They make and conclude treaties, but can only recommend the observance of them. They appoint ambassadors, but cannot defray even the

expense of their tables. They may borrow money in their own name on the faith of the Union, but cannot pay a dollar. They may coin money, but they cannot purchase an ounce of bullion. They may make war and determine what number of troops are necessary, but cannot raise a single soldier. In short, they may declare everything, but do nothing.” We may add that the United States of America had no executive, and barring imperfect prize courts, whose decision could not be enforced until after the adoption of our present Constitution, no judiciary, and not a dollar to pay a judge or juror. This was of less importance, as in the presence of the riotous and supreme sovereignty of the individual States, there was not a criminal law against the general government for the evil-minded to violate, nor any procedure to bring them to justice, howsoever flagrant the violation might have been.

Finally, the Congress of the Confederation itself, after repeated efforts to better affairs, silently and informally disbanded in disgust, and the French Minister wrote to his government : “There is now in America no general government, neither president nor head of any one administrative department.” In the meantime, Washington had performed his last public act under the Revolutionary Government. This was

his formal resignation as Commander-in-Chief of the American Army. He bade farewell to the "ragged Continentals, fearing not," and broke up their encampment at Newburgh, on the Hudson. He had, on the eighth anniversary of the Lexington fight, announced to his brave army the joyful prospect of a certain peace. It was now November. He had been concerned for several days with the British evacuation of New York, and at a tavern, near Whitehall ferry, he gave an affectionate farewell to his officers, grasping each silently by the hand. It was not until the twenty-third day of December that his resignation was delivered to Congress, and Mifflin, the president of Congress, as he received the parchment, exclaimed : " You retire from the theater of action with the blessings of your fellow-citizens, but the glory of your virtues will not terminate with your military command ; it will continue to animate remotest ages." The great man now retired to that beautiful colonial home on the romantic eminence, where the placid tides of the Potomac lave its Virginian shore, hard by the spot where his ashes now repose, forever to be hallowed by the love and devotion of increasing millions of his grateful countrymen. But the charms of Mount Vernon could not banish from the mind of Washington the urgent necessities of his country.

He saw John Adams, our first minister to the Court of St. James, welcomed indeed most cordially by his first visitor, the noble and venerable Oglethorpe, the founder of our State, but treated with surly and contemptuous indifference by the British ministry, who sent no ambassador in return. He saw that when the American Commissioners attempted to negotiate a commercial treaty with Great Britain, they were contemptuously asked whether they had credentials from the separate States. He knew that the public debt could not be funded ; that the interest could not be met ; that no taxes could be collected ; that if there should be an attempt to coerce a State to pay its assessment, it meant, perhaps, civil war, bloodshed and disintegration ; that the best securities of the country rated at times as low as fifteen per cent. ; that at home and abroad our country was becoming disreputable ; that Great Britain yet refused to surrender her western posts, confessedly within the boundaries fixed by the treaty of peace ; that Spain, who for long thwarted the recognition of our independence and was ever the insidious enemy of America, holding the mouth of the Mississippi, was striving to withdraw the allegiance of our people west of the Alleghanies ; that the Atlantic coast, from the Bay of Fundy to St. Mary's river,

was cut up between thirteen independent States, each with its antagonistic revenue laws and collection methods ; that tariffs against each other on State lines were alienating the American commonwealths ; that Connecticut taxed Massachusetts imports higher than British ; and he heard the complaints of his intrepid comrades, who had faltered not amid the floating ice of the Delaware, or the Hessian volleys at Trenton, or the agonies of cold and hunger at Valley Forge, or the sweltering heat of Monmouth, who at last had swarmed over the British entrenchments at Yorktown, and now without pay or pensions had repaired to homes of penury and distress. It is not surprising, then, that the Father of his Country, and many who thought with him, determined that America should have a Government worthy of the glories of its past, commensurate with the necessities of the hour, and sufficient for the exigencies of the future. I may not in the limits of this lecture detail how the necessity of a convention to frame an adequate constitution for the United States was rapidly dominating the minds of the American people ; how those brilliant youths, Hamilton, and Madison, and Jay, the cultivated jurist, devoted their facile and lucid pens, their marvelous powers of argument and organization to the cause of the Union. Of Hamilton and Madison it has been

said that "the complement of two such minds was most auspicious for the country." They were both very young, for such a mighty undertaking, but they were in constant communication with Washington, whose serene wisdom curbed the fervid energy and self-confident impetuosity of Hamilton, and encouraged the dispassionate, clear-sighted and effective powers of Madison. It was perhaps fortunate at this period that the destinies of the proposed Union were committed to this triumvirate. Many of the great leaders of the Revolutionary period were unfitted for the task. James Otis was dead. Patrick Henry was devoting the "native wood notes wild" of his eloquence to the aggrandizement of State sovereignty. George Clinton, Hancock and Samuel Adams, all full of years, were enjoying the ease and veneration due the faithful and successful patriot. Jefferson was minister to France, and John Adams to Great Britain. The venerable Franklin, having controlled all the currents of diplomacy which united in peace, was now governor of Pennsylvania, and had little time for other duties. Washington was the friendly neighbor of Madison, and Hamilton he loved as he might have loved his son.

Virginia, first in many great emergencies, now took the lead, somewhat irregularly, it is true, in calling

the famous convention of 1787. Virginia and Maryland in those days had disputed rights in the waters of the Chesapeake and Potomac, and the dispute still survives. Commissioners met at Alexandria in the spring of 1785 to adjust this controversy, of vital importance to the denizens of those States, involving as it did the famous oysters of the Chesapeake and the renowned shad and herring of the Potomac. Madison was a commissioner and he skillfully suggested to his associates the advisability of calling a conference of the States the next year, for the purpose of forming a uniform system for inter-state commerce. The suggestion, while not strictly germane to the business in hand, was a good one. Maryland invited the neighboring States of Delaware and Pennsylvania to attend, while the legislature of Virginia enlarged the invitation so as to embrace all of the States. The place of the convention was fixed for Annapolis, and the time September 17, 1786. Distances were great, roads were bad and communication was difficult, but many prominent men took part in promoting the convention. Hamilton secured the accession of his State, and his own appointment as a delegate, and Madison took a horseback journey to New York to complete the preparations, but, after all, only twelve delegates assembled. Hamilton and Madison

were both present. Washington was not there, but he was fully advised by Madison of all that took place. No State south of Virginia, and no State in New England, sent delegates. New York, New Jersey, Pennsylvania, Delaware and Virginia were represented. The delegates present, not disheartened, issued a formal recommendation to the thirteen States to send delegates to a convention to be held at Philadelphia on the 14th of May following, and Hamilton prepared a persuasive address to accompany the recommendation. As the time for the second convention approached, the activity of its patriotic promoters increased. The feeble Congress was induced to lend its approval. Madison had again induced Virginia to become the vanguard and had made much use of an autograph letter from Washington, in which the great man had expressed the hope that "Virginia would take the lead in promoting the great and arduous work of reconstruction." This was decisive, said a writer on those times. "When Virginia displayed the gilded roll of her delegation, and showed the patriot commander at the head of the list, the whole country thrilled with joy. New Jersey, Pennsylvania, North Carolina and Delaware now fell in promptly. The Quaker State inscribed first on her standard the name of that other immortal sage, who,

with equal facility, drew lightning from the scowling sky and from the angry breasts of his fellow man.' That name, I need not tell you, was Benjamin Franklin, who, when more than eighty years of age, was declared to be an ornament to human nature. It was on May 25 that a quorum in the convention assembled in Independence Hall, where the Declaration of Independence had been signed. At Franklin's request, Washington was made the unanimous choice for president of the convention.


It was composed of fifty-five members. The grade of intellectuality was exceedingly high. Many of the States had taken care to send the older patriots. Four had signed the Declaration of Independence eleven years before. Many were brilliant patriots of '76. Eighteen belonged to the Continental Congress. The convention truly represented the wealth, conservatism and culture of the States. While many of the delegates in this day would be termed aristocrats, they were all devoted to the maintenance of the largest liberty consistent with the public safety, but no more. The convention comprised men familiar with the history of nature, and competent to deduce the lessons of experience from the annals of time; jurists of profound and solid learning, who well knew how much the noble science of jurisprudence had accomplished

in the advancement of liberty and just government ; soldiers, whose fortitude in the physical suffering of the battle and camp, ennobled them to estimate correctly the blessings of peace, which good government alone can insure. We cannot, in the course of these lectures, contemplate, as every profound student of the Constitution should do, their deliberations, and the successive stages of their progress to the completion of the great instrument itself. At last it was finished, and the illustrious Bancroft declares, "the members were awe struck with the result of their counsels. The Constitution was a nobler work than any one of them had believed possible to devise." Jefferson has proclaimed that "it was the wisest ever presented to man," and Gladstone, whose marvelous career had begun when your fathers were yet unborn, and who yet survives, one of the noblest instances of enduring intellectuality the world has ever known, has recorded : "As the British Constitution is the most subtle organism which has proceeded from progressive history, so the American Constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man."

LECTURE IV.

It was by no means certain, after the convention had completed its labors, that the Constitution would be adopted. It was not submitted to the State governments for adoption, but in every State, conventions of the people were called. The debates in these conventions, so far as we have any account, were very able. Finally, the known evils of the Confederation, which had afflicted the country, the urgency of the public danger, the cogency and vigor of the arguments addressed to the public by the friends of the Constitution, began to prevail with the thoughtful and the patriotic. Indeed, this was inevitable. "In our endeavors," said Washington, "to establish a new general government, the contest, nationally considered, seems not to have been so much for glory as for existence. It was for a long time doubtful whether we were to survive as an independent republic or decline from our federal dignity into insignificant, withered fragments of empire."

It had been related, that while in the closing moments of the constitutional convention, the last members were signing the parchment on which the great instrument was enrolled, the venerable Franklin, looking towards the president's chair, upon the back of which was painted a half sun, observed to those standing near him that painters found it difficult to distinguish in their art between a rising and a setting sun. "I have," he added, "often and often in the course of this session, and in the vicissitudes of my hopes and fears as to the issue, looked at that behind the president without being able to tell whether it was rising or setting, but now I have the happiness to know that it is a rising and not a setting sun." It was now to be seen that the sanguine prophecy of this illustrious philosopher was about to be verified. The cause of the Constitution was forging steadily to the front. It is true that the States became the battle ground of its friends and its opponents. It is true that it was required that the conventions in nine out of thirteen States, should be lawfully summoned, the delegates judiciously selected and piloted to an approving conclusion. There was no political organization to which the emoluments and distinctions of office gave inspiration for persistent and systematic effort. The friends of the Constitution had nothing to offer



to win the popular vote, save an appeal to reason and the claim that the adoption of the Constitution would restore civil order, revive public credit, and bring the great but chaotic power of America into harmonious and well-directed action. On the other hand, the enemies of the Constitution had nothing better to suggest, but, the *vis inertia* of the States, the deep-rooted mistrust of centralized power, which the conduct of Great Britain had implanted in the breasts of the people, and the ever-present State pride made their opposition formidable. This was but natural. It had been predicted by Hamilton before the convention assembled. "The State governments," said he, "operate upon those familiar personal concerns to which the sensibility of individuals is awake. The distribution of private justice in the courts surely belongs to them, and they must always appear to the sense of the people as the immediate guardians of their rights. They will, of course, have the strongest hold on their attachment, respect and obedience." It may be added, that, to the statesman not yet ambitious of a stronger fight, the politics of the State afforded an easy course for his ventures, which were furthered by his devotion to local interests, to the enhancement of State authority, and by hostility to the supremacy of a central power.

On the other hand, the friends of the Constitution had the ablest writers and, with a few but notable exceptions, the most attractive popular orators. Many of the delegates in the convention had familiarized themselves with the history of governments. The deliberations of the convention had been secret, but had received the closest attention of such men. And these, when they approached the public discussion of the plans the convention had adopted, to quote a historian, "came as from a private rehearsal." They were prepared for argument, while the malcontents were left to make their attack as best they could. It is not to be denied that many of the criticisms of the instrument, in the condition in which it was first submitted, were entirely just. It did not adequately set forth the bill of rights, so dear to all lovers of liberty among English-speaking people, but it was pointed out that the Constitution should not be rejected on that ground, for, by amendments, the bill of rights could be added. We shall see that this was done. The first ten amendments were proposed to the legislatures of the several States by the first Congress which met after its adoption, on the 25th of September, 1789. They were all ratified by December 15, 1791. When I tell you that these amendments prohibited the union of church and State, preserved freedom of speech and

of the press, the right of people to peaceably assemble and petition the government, to bear arms, to be free from the quartering of soldiers, prevented unreasonable searches and seizures, protected the citizen against prosecution save after presentment or indictment of the grand jury, guaranteed a speedy and public trial, with the benefit of counsel, the right of trial by jury at common law, prohibited excessive bail, and denied to any person the right to bring suit in law or in equity against one of the States, you will perceive how weighty were the objections.

These amendments, we may remark here, were proposed by Mr. Madison, through whose earnest advocacy their passage through the first Congress was secured. He has justly been termed "the father of the Constitution," and he was the last survivor of those noble patriots who framed it. He was six years the senior of Hamilton, small in stature, reserved and shy, prone to blush and pale. It is said that strangers were impressed by him as by some plain gentleman farmer, but those who acted with him came to value his singular ability, unerring judgment and his unimpeachable integrity. His modesty and discretion placated the pride and commanded the support of those who were his superiors in age and experience. He was the son of a distinguished family of Virginia and

was educated at Princeton College, a nursery of American statesmen. He skillfully avoided personal quarrels. He moved others by his clear, unimpassioned style of reasoning, and not by fervid eloquence. He had great powers of conciliation and was always "feeling," to use his favorite expression, "for some middle ground." This friend of Washington, compatriot of Hamilton and disciple of Jefferson, survived, to that turbulent period of American politics, when it was attempted to nullify and disregard the legislation of Congress, and his last message to his countrymen, penned with the tremulous hand of age, and bedewed, we may believe, with the tears of apprehension and sorrow, appealed for respect and obedience to the laws of that Union, in whose formation he was a principal indeed an immortal actor.

This great man, in company with Hamilton and Jay, undertook the preparation of a series of political essays in explanation and advocacy of the Constitution, which now constitute, in their collected form, one of the most renowned classics in our language. To this day, despite the enormous transformations of modern times, and the innumerable topics embraced by the expansion of the nation, within the elastic chain of the Constitution, there are many who believe that the *Federalist* is the best commentary upon our organic law, which

has yet been written. These papers were eighty-five in number, brief, vivid, attractive in style, clear in statement, persuasive in effect. They were apparently designed to influence opinion in New York, where the friends and enemies of the Constitution were about evenly divided, but they produced a profound impression throughout the entire country. It is probable that Hamilton originated the plan, and his son asserts that he wrote sixty-three out of eighty-five, that Madison wrote only fourteen, and that three others were their joint products. On the other hand, Madison's biographer claims that he wrote twenty-nine, including some of the most important of these famous essays. It seems that Jay wrote but five. On the other side, "Letters of a Federal Farmer," written, it is said, by Richard Henry Lee, of Virginia, were circulated by the thousand.

At this time Thomas Jefferson was engaged on a mission to France. The renown he had achieved when only thirty-three years of age, by writing the Declaration of Independence, his services as governor of Virginia, his leadership in law reform in that State, his magnetic manners and epigrammatic pen, had given him great influence which was to be scarcely diminished for nearly half a century of his own life, and yet moves millions of his countrymen. His belief in the

people was absolute. He afterwards said: "Whenever our affairs go obviously wrong, the good sense of the people will interpose and set them right." He had become, while abroad, strongly imbued with the spirit of the French revolution. He had written home: "There is not a crowned head in Europe whose talents or merits would entitle him to be elected vestryman by the people of any parish in America." He admired, it is true, the Great Frederick of Prussia, but then, for well-known reasons, Frederick was not entitled to be a vestryman. When, a little later than the period of which we speak, Jefferson began to appreciate the grandeur of the American conception, he exclaimed: "It is indeed an animating thought that while we are securing the rights of ourselves and our posterity, we are pointing out the way to struggling nations who wish, like us, to emerge from their tyrannies also. Heaven help their struggles and lead them, as it has done us, triumphantly through them. The ground of liberty is to be gained by inches. It takes time to persuade men to do even what is for their own good." This last sentence of the Sage of Monticello was not inapplicable to himself, while the great debate over the adoption of the Constitution was in progress. When he left America he believed that the Articles of Confederation needed only a few amendments to give the

government sufficient strength, and while Madison kept him posted as to the progress of the national movement, he seems to have kept his mind open to conviction. The scheme for a central government not dependent upon the approval of State organization pleased him, as did the separation of executive and judicial powers, but his apprehensions were gravely excited when he found that the draft as adopted did not at first provide for religious toleration, freedom of the press, protection against standing armies, for restraint of monopolies and for jury trial. He believed that *habeas corpus* should be always a living remedy, and he strongly favored a single term of seven years for the presidency. However, he did not mean by his objections to jeopardize the new government if these principles to which he was especially devoted could afterwards be surely attained. In the meantime, Massachusetts had acted. In that State the conservatism, culture and wealth of the people were for the Constitution. The clergy took active part in the town meetings. The lawyers, the college-bred men and merchants strongly favored its adoption. There, too, on that side, the famous Revolutionary generals, Knox, Heath, Lincoln and Brooks, arrayed themselves, and with them a long list of men eminent in civil life. It was said that the opponents to the

Constitution were "long-haired folk, bumpkins, green radicals and training-day generals, who came up and down to Boston from their rural constituency to cut their awkward antics and then vanish like Ariels shapes," but perhaps this was calumny.

John Hancock, who was governor, and Samuel Adams both hesitated. Finally the Boston mechanics, by a great demonstration, appealed to the sturdy patriotism of Adams, and Hancock was deftly invited by the Federalists to act as general mediator. At length the governor, presenting to the convention a list of nine amendments to be added to the Constitution, was supported in temperate and felicitous words by Samuel Adams, and the vote of the Bay State was cast for united America. This action won the applause and determined the action of the yet neutral Jefferson, who now wrote unhesitatingly to his friends that the true solution was to ratify the instrument and propose the desired amendments. "It will be more difficult," he said, "if we lose this instrument to recover what is good in it than to correct what is bad after we shall have adopted it. It has, therefore, my hearty prayers."

Before the expiration of the year 1787, the conventions of Delaware, Pennsylvania and New Jersey had taken favorable action, and Delaware won the first honor by its unanimous vote. The Constitution was

very strong in Pennsylvania, and there is an interesting precedent in parliamentary law in the action of the legislature of that State, when certain opponents sought, by absenting themselves from the meeting, to break a quorum on the vote to hold the convention. The friends of the measure pursued the absentees, caught them, dragged them to the State house and pushed them into the legislative assembly, the door was closed upon them and, with a quorum secured by this energetic conduct, the vote was carried. In January, 1788, Georgia and Connecticut ratified, our own State giving a unanimous vote, and Connecticut a majority of more than three to one. The result in that State was due in large measure to the influence of Roger Sherman. * Maryland ratified in April, and South Carolina in May gave evidence of her right to the title, "the Harry Percy of the Union," bestowed on her many years afterwards by the eloquent Sargent S.

* George T. Hoar and William M. Evarts are grandsons of Roger Sherman. The grandmother of these great Americans was the beautiful Rebecca Prescott. On one occasion, while visiting her husband at the seat of Government, she was invited to a State dinner by Washington, and conducted to the table by the General himself and given the seat of honor on his right. When complaint was made to his Secretary by Madame Hancock that her rank entitled her to that distinction, the Father of his Country replied that it was his privilege to give his arm to the handsomest woman in the room. History is discreetly silent as to the effect of this Executive explanation.

Prentiss. Virginia and North Carolina had not then given their adhesion, and thus South Carolina dared the risk of territorial isolation. Indeed, the hesitation of Virginia and New York gave the greatest concern to the friends of the Union. In the former State George Mason, who had left the Philadelphia convention, was thoroughly hostile.

Washington was the "silent watchman." He took no part in the great debate. Known to be an ardent friend of the Constitution framed by the convention, over whose deliberations he had presided, his majestic personal influence pervaded the country from the hills of New Hampshire to the pines of Georgia. On his return to Mount Vernon, after the adjournment of the convention, he at once mailed Patrick Henry a copy of the new Constitution, with the statement that in his own estimation the plan was the best obtainable, and judiciously called attention to the article which permitted amendments, and at the same time declared that our concerns were suspended by a thread.

But, with the usual fate of the prophet, Washington had less influence in his own country than elsewhere. He was not a member of the Virginia convention to pass on the Constitution, and Madison was the exponent of his views and the reliance of the Virginia Federalists. Washington had advised him to resign

his seat in Congress to run for the State convention. He had accepted the advice and was now elected.

There, too, was John Marshall, tall and ungainly, but a rising member of the Richmond bar, and there he laid the foundation of his distinction as a friend of the Union, and perhaps of that imperial structure of constitutional jurisprudence, composed of the decisions which in after years he rendered, when Chief Justice of the Supreme Court of the United States.

This great man had been a soldier of the Revolution. It has been said that Washington was a man whom it seems Providence had designed especially for the liberation of the American people. "The providence of God," said Mr. Binney in a eulogy on Marshall, "is shown most beneficently to the world in raising from time to time and in crowning with length of days, men of pre-eminent goodness and wisdom." Of him William Pinckney said, "I believe that the gift of John Marshall to America was a special providence. He was born to be the chief justice of any country in which providence should have cast him," and Pettigru, of South Carolina, declared "though his authority as Chief Justice of the United States was protracted beyond the ordinary term of public life, no man dared to covet his place, or express a wish to see it filled by another. Even the spirit of party respected


the unsullied purity of the judge, and the fame of the Chief Justice has justified the wisdom of the Constitution and reconciled the jealousy of freedom to the independence of the judiciary." In the fervid debates on the adoption of the Constitution, which took place in the Virginia convention, Patrick Henry exclaimed of Marshall: "I have the highest respect and veneration for the honorable gentleman. I have experienced his candor upon all occasions." Some years afterwards, in the famous case in the Circuit Court of the United States involving the validity of the British debts, these great Virginians were opposed to each other. Of Patrick Henry, Judge Iredell, who presided, said: "He spoke with a splendor of eloquence," but of Marshall's argument he declared "it was marked by a depth of investigation and a power of reason exceeding anything he had ever known before."

We may imagine how titantic was the struggle in the Virginia convention when a Marshall was opposed by a Henry. The latter struck every note of discord as only he could do. "We shall have a king," he cried, "the army will salute him as monarch." It is well known how he seized upon the terrors of a transient thunder storm and invoked the dread flash of the lightning and the detonations of the thunder as

marks of the displeasure of Heaven upon the proposed Constitution. But the stalwart logic of Marshall, the temperate, lucid and impassioned persuasions of Madison, and the powerful, but silent, influence of Washington prevailed and on June 25, by a majority of ten, the Old Dominion cast her lot with her sister States and voted for the Constitution. In the meantime New Hampshire had become the ninth State, and the Constitution was adopted. It was only a few days now until the 4th of July, and on Independence Day, the joyful patriotism of the people broke out in tremendous demonstrations. The anti-Federalists in New York could no longer confront the intensified fervor of the Unionists, and one month behind the Virginia convention, the Empire State wheeled into line. The majority, however, was small, and the convention attempted to reserve the right to withdraw. "Has a State convention the right to ratify with such a reservation?" Hamilton wrote to Madison, now sitting in the Continental Congress. "Such a ratification," said Madison in reply, "or any conditional ratification, in fact, would not make New York a member of the new Union." North Carolina and Rhode Island still held out, but the country paid little attention to these recalcitrant States. Our first president was elected; our Congress assembled; the United States courts opened,

enactments of Congress were enforced by them, and all the administrative departments of the government were in full operation before these reluctant and pouting sisters crept into the family circle.

The people of the United States had now for the first time a government, and they did not delay to avail themselves of its advantages. The Continental Congress in September, after the adoption of the Constitution, fixed upon the first Wednesday in January, 1789, for the choice of presidential electors; the first Wednesday in February for the meeting of the electoral college, and the vote for the president and vice-president, and the first Wednesday in March for the inauguration of the new government. Now, the first Wednesday of March happened to be the 4th day of that month, and except the first, which was on the 30th of April, since then, that has been inauguration day. There was one man in America to whom the thrilling and grateful heart of every American instinctively turned for president. That man was Washington, and he received the unanimous vote of the electoral college. Pennsylvania might have presented a candidate for the vice-presidency, but did not do so. New York, laggard in adopting the Constitution, was out of the question, and the second place therefore went to Massachusetts. There were three great patriots of the



Bay State who might properly have been chosen. They were John Hancock, Samuel Adams and John Adams. The last of the three, fourteen years before, had designated Washington as commander-in-chief of the Continental Army ; he was now to be the first vice-president. It is regrettable that, through a mistake of Hamilton, he did not, like his great chief, receive the unanimous vote of the electoral college. As the Constitution at first provided, the electors were to ballot for two persons, and he who received the highest number of electoral votes became president, while he who was second became vice-president. The anti-Federalists had pressed George Clinton, of New York, for the second place, and, alarmed lest a division of the vote might defeat Washington, Hamilton suggested at the last moment that the electors should scatter the votes, which would otherwise have gone to Adams. While Washington received the full vote of sixty-nine, Adams, as a result of this suggestion, had only thirty-four votes. The grand old civilian of '76, while patriotic to the core, was passionate and sensitive. He never forgave Hamilton. "I have seen the utmost delicacy used toward others," he wrote to a friend, "but my feelings have never been regarded." Washington and Adams were inaugurated on the appointed day. I may not take time to describe to you

the triumphal progress made by the Father of his Country from Mt. Vernon to New York, over the same route on which, fourteen years before, he galloped post haste to take command of the minute men at Boston, the news of Bunker Hill meeting him on the way ; how, at the head of the City Troop, he rode through Philadelphia upon a white horse, wearing, we may safely conclude, with some annoyance, a civic crown of laurel upon his head ; how, at Trenton, an arch spanned the bridge, over which he had led his ragged Continentals to attack the Hessians, bearing the inscription : “The defender of the Mothers will be the Protector of the Daughters,” and how lovely girls, clad in white, strewed flowers before him, as they sang an ode of welcome. Nor may we describe the stately ceremonial, with which he was welcomed to New York ; nor the imposing scene in which the great man, now showing some of the indications of approaching age, and seeming less the fearless and resolute warrior, than the venerable and venerated sage, took the oath as First President of the United States.

In the meantime, since the adoption of the Constitution, all the signs of the times had brightened. The Continental Congress, with its last expiring breath, had adopted the famous and salutary Ordinance for the government of the territory northwest of the Ohio.

The new State of Frankland, which, in the period of "State sovereignty run wild," had been organized in Western North Carolina, had gone to pieces. The old Congress had strongly asserted our right, then denied by Spain, to navigate the Mississippi. "Hope elevated and joy brightened the crest" of every American patriot.

The new Congress, as soon as organized, went busily to work, and between the first of June and the last of September twenty-seven acts and five joint resolutions were adopted, and many of them still survive in our legislation. Madison, who was the administration leader, began his career by reminding his fellow members that the Union, in its first act, should restore its credit "and revive those principles of honor and honesty that had too long lain dormant." Under the magical influence of Hamilton's constructive genius, the treasury department was organized and began the great work of creating the public credit. It had been supposed that the new Union would never pay its debts. The sovereign States, when the Confederation left each to work its own sweet will, had justified the foreboding.

When the first revenue act had passed, the government securities had risen, but when Hamilton's report, in which he pointed out the ability of the country to

maintain its good faith and pay its debts, was given to the public, the securities made an amazing advance. Their certificates were in demand everywhere. Swift messages were sent by capitalists in every direction to buy them up. By a vote of nearly three to one, Hamilton's proposal was adopted. When, however, he further proposed to assume the debts of the States, the breadth, power, and honorable generosity of the new government began to be seen. Finally, the debts of the States, amounting to twenty-one million five hundred thousand dollars, were assumed by the United States, and to Hamilton belongs the honor of placing the National credit of this Union, in the first years of its birth, on the imperishable rock of scrupulous integrity and public good faith. From the moment of Washington's inauguration our country has taken no steps backward. The organic law, he first was chosen to execute, has proven ample for every exigency of the undreamed of millions, to whom it is a palladium and a joy. To our country's youth there can be no temporal subject for contemplation and understanding, more important than the history of our government's formation and the nature of its Constitution; no exemplars so worthy of imitation as the illustrious men, whose prescience and patriotism accomplished the magnificent result. "If there be anything," said a writer on

those days, " which may justly challenge the admiration of all mankind, it is that sublime patriotism which, looking beyond its own times and its own fleeting pursuits, aims to secure the permanent happiness of posterity by laying the broad foundations of government upon immovable principles of justice. Our affections, indeed, may naturally be presumed to outlive the brief limits of our own lives and to repose with deep sensibility upon our own immediate descendants. But there is a noble disinterestedness in that forecast, which disregards present objects, for the sake of all mankind, and erects structures to protect, support and bless the most distant generations. He who founds a hospital, a college, or even a more private and limited charity, is justly esteemed a benefactor of the human race. How much more do they deserve our reverence and praise whose lives were devoted to the formation of a constitution which, when they and their children are mingled in the common dust, will continue to cherish the principles and the practice of liberty in perpetual freshness and vigor."

LECTURE V.

Our lecture this evening will be restricted to the consideration of the eighteenth and last clause of Section 8, Article 1, of the Constitution. You have observed that this entire section is devoted to a consecutive enumeration of the powers of Congress—in other words, to the specific grants by the people to the National legislature. Had the framers of the Constitution remained in the same temper with the framers of the Articles of Confederation, this enumeration would have been regarded as sufficient, for the latter instrument forbade the exercise by the government of any powers not expressly granted—that is to say, not granted in the letter of that compact. But the statesmen of that period had no mind to form another union, to have it crushed by contempt at home and opprobrium abroad, because it wanted the power to enact laws appropriate to enforce its authority, and to compel obedience to them when made. Hence it was, that to regenerate, beautify, and, it may be, make immortal that abortive weakling, gasping for the

vitality the States had withheld, it was essential to impart the powers we shall now consider. These powers are expressed in this clause. It provides: "The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof."

There is perhaps no clause in this noble instrument which has more strongly fostered the growth of the country, or is now so vital to its rapidly increasing people, and to the satisfactory solution of the innumerable questions of government our modern development propounds. It has been from the first, the subject of acrimonious disputes, and is even now the occasion for political and judicial controversies. We are not here concerned with its political, but with its legal effect. In previous lectures, we have instanced how utterly ineffective was the Confederation without this power. That "firm League of Friendship" purported to confer certain main essentials of government upon the United States, but a grant of power is a nullity unless means to enforce it are also granted. The old argument, hostile to this clause, is that, when a question of the power of Congress arises, the advocate of the power must be able to place his finger on words which

expressly grant it. "This argument," says Mr. Justice Miller in *ex parte* Yarborough, 110 United States 658, "is often heard, often repeated, and never assented to by this court." It is indeed impossible to be otherwise, for the reason that in the Constitution general expressions merely can be used, and had it been attempted to express all of the derivative powers of the government, the instrument must have been as voluminous as the statutes enacted to make it effective. It would have been equally impossible to have expressed all the restrictions on the National power.

We may not then, in the light of modern jurisprudence, fail to perceive the significance and value of this clause as a settled principle of our government. It does not, as some may have believed, purport to confer upon Congress the powers of general legislation. It is carefully restricted both by the language of the clause itself, and by a multitude of paramount decisions, to legislation essential and appropriate for carrying into execution the powers vested in the government of the United States or in any department or officer thereof. You have clearly understood that the government of the United States possesses no general powers to legislate relative to the local concerns of the people, such as are exercised by the legislatures of our States, or by the Parliament of Great Britain, or by

other legislative bodies of foreign countries, which are vested with imperial or general authority, and at the same time with the police power, and other powers relating to local government. The powers of our government are limited, but, so comprehensive and important are the topics to which they extend, they are nevertheless great, and in so far as they are expressly granted, or are necessarily implied, they are sovereign. Not only is this true as to the supremacy of the National law, but it is also true that these laws are operative on every foot of the soil of every State and of every territory. Said the Supreme Court of the United States in *ex parte Siebold*, 100 United States 371: "We hold it to be an incontrovertible principle, that the government of the United States may, by means of physical force, exercised through its official agents, execute on every foot of American soil the powers and functions that belong to it. * * * It must execute its powers or it is no government. It must execute them on the land as well as on the sea, on things as well as on persons. And, to do this, it must necessarily have power to command obedience, preserve order, and keep the peace, and no person or power in this land has the right to resist or question its authority so long as it keeps within the bounds of its jurisdiction."

This language, which was uttered by Mr. Justice Bradley, was reiterated by Mr. Justice Miller in the famous case, *In re Neagle*, 135 United States, p. 1. The opinion of the Supreme Court in that case was not unanimous.

Mr. Chief Justice Fuller and the late Mr. Justice Lamar, whose renown as a man and a Georgian is dear to our people, dissented. These eminent jurists were presumed to adhere to those principles of strict construction of the Constitution, which tend to minify the powers, which such jurists as Mr. Justice Miller and Mr. Justice Bradley assert to belong to the United States. While this is true, Mr. Justice Lamar, in his dissenting opinion, used the following language : " Many of the propositions advanced in behalf of the appellee (Neagle) and urged with impressive force, we do not challenge. * * * Nor do we question the general proposition that the Federal Government established by the Constitution is absolutely sovereign over every foot of soil and over every person within the National territory within the sphere of action assigned to it, and that within that sphere its Constitution and laws are the supreme law of the land, and its proper instrumentalities of government can be subject to no restriction, and can be held to no accountability whatever. Nor, again, do we dispute the

proposition that whatever is necessarily implied in the Constitution and laws of the United States is as much a part of them as if it were actually expressed." In the presence of such explicit utterances from these illustrious jurists of different schools, he would be a bold man who would deny or question the supremacy of the laws of the United States, framed within its scope and purview to execute the express or implied powers of the Constitution. "Let the end," said Chief Justice Marshall, "be legitimate; let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to the end, and which are not prohibited but are consistent with the letter and spirit of the instrument are constitutional." It follows, of course, that enactments of Congress, or the action of officers or departments of government not within the scope of the Constitution are null and void.

At this point a question of tremendous importance has been much discussed; it is, what is the final interpreter, of questions involving the Constitution? This is indeed a momentous inquiry. History affords many instances where the absence of a final and decisive arbiter of disputed questions of government has resulted in revolution, with the resulting horrors of war, and the change of institutions. The people of

the United States may felicitate themselves that a number and variety of questions affecting the existence of the nation itself, have been peacefully and finally settled by the methods of constitutional arbitration which our organic law affords. The separation of power into three principal departments, the legislative, the executive and the judicial, has rendered necessary a three-fold power of arbitration which is in large measure, but not in all cases, final.

This seems to have been inevitable. The distribution of power, having its exercise in the first instance with the principal functionaries of these departments, makes it essential, whenever a question not previously settled by competent authority is presented, for each to determine for himself how it accords with the Constitution. Thus the President will determine an executive question, a member of Congress will decide whether a proposed bill is justified by the Constitution, and these decisions, whenever they are within the exclusive control of the President or of Congress, or when they are exclusively of a political character, may be revoked only by the department deciding them. For instance, there is no power anywhere to interfere with a decision of Congress to declare war, or to appropriate money, or to propose amendments to the Constitution by the requisite majority, nor may the power

of the President and Senate to make treaties, when they have been ratified, be questioned. And yet these several functions may actually be performed in a manner wholly outside the purposes of the Constitution. The constitutional corrective for such wrongs is the vote of the people at the next appropriate election. The decision of the executive as to the constitutionality of a measure has been found to be at times practically irrevocable, even after the decision of the Supreme Court had pronounced otherwise.

In 1832 President Jackson vetoed the bill to re-charter the Bank of the United States, declaring it to be unconstitutional, when the Supreme Court, through the illustrious Marshall, had held it constitutional, but the unchallenged presence of hundreds of National Banks throughout the country at the present day, demonstrates that the people have sustained the court and reversed the executive. Again, in his inaugural address, President Lincoln, commenting on the Dred Scott decision, uses this language : " The candid citizen must confess that if the policy of government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made in ordinary litigation between parties in personal actions, the people will have ceased to be their own rulers, having to that extent

practically resigned their government into the hands of that eminent tribunal." The views of President Jackson received the condemnation of many of the first thinkers of the time, and especially of Mr. Clay and Mr. Webster, and Prof. Samuel Tyler, in his "Memoirs of Chief Justice Taney," who rendered the Dred Scott decision, does not hesitate to assail the views of Mr. Lincoln. As to Congress and the judiciary, Judge Cooley has presented, I think, the true distinction with much clearness. He writes: "The boundary between legislative and judicial power is in general clear. To declare what the law is, is the province of the latter; to declare what it should be, within the limits of the Constitution, pertains to the former, and when the question is, what are those limits, it is the duty of every party called upon to exercise an independent authority, carefully and conscientiously, on a full consideration of all the light he can obtain to satisfy himself that he does not overstep the bounds which the people, in delegating their authority to him, have set to his power. That is safe, proper and a just rule for every citizen, every officer and every tribunal to apply wherever there is a discretion to exercise." I will add that wherever the rights of the citizen may be affected by a particular governmental act, whether it be an act of Congress or of the

State legislature, or of an executive or judiciary functionary, either of the State or of the United States, if it be capable of submission to a court having jurisdiction, the final and common arbiter of the constitutional question is the supreme judicial authority of the courts of the United States. In such cases the final decision of that authority is binding upon all the people, all the States and all the departments of the general government.

It is this magnificent significance of judicial power and usefulness which dignifies our government over that of any other nation. Lord Chatham declared of the British Constitution : “ The poorest man may in his cottage bid defiance to all the forces of the crown ; it may be frail, its roof may shake, the wind may blow through it, the storm may enter, but the king of England cannot enter ; all his forces dare not cross the threshold of the ruined tenement.” “ But,” said Mr. Phelps, in his eulogy on the Supreme Court of the United States, “ the great orator could go no further ; he could not say the British Parliament might not enter the home of the subject, for all the judges of England are powerless in the face of an act of Parliament, whatever it may be. It was reserved for the American Constitution to extend the judicial protection of personal rights, not only against the rulers of the

people, but against the representatives of the people. And," continued the great American lawyer, "judges will be appointed and will pass away. One generation rapidly succeeds another. But whoever comes and whoever goes, the court remains. Strong in its traditions, consecrated by its memories, fortified with the steadfast support of the profession that surrounds it, anchored in the abiding trust of its countrymen, the great court will go on—and still go on. Keeping alive through many a century that we shall not see, the light that burns with constant radiance upon the high altar of American constitutional justice."

It would be impracticable to state, even in brief, the innumerable advantages to the country, involving the common defense, the general welfare, and other express or necessarily implied purposes of the Constitution, for which this clause and the inherent power of the nation are the title and authority. To one illustration I will direct your attention.

You will remember that in our first lecture it was stated that the dream of a French empire on this continent vanished with the fall of Quebec, but it is true that the Frenchmen have never been content with that result. Sanguine, and enterprising, they have since then made two determined attempts to establish themselves in America. The last was the disastrous

invasion of Mexico by the French armies and the enthronement of Maximilian. At first hopeful, this ambition of the third Napoleon was defeated. At the expiration of our late war, the government of the Union was moving a powerful army, under the command of General Sheridan, to drive the French out of Mexico, when they hastily took to their ships. The first attempt was when Napoleon, then First Consul, extorted from the Spanish crown the retrocession of New Orleans, and all that territory west of the Mississippi which was termed Louisiana, which, by a secret treaty, had been ceded by France to Spain before 1762. The Directory had made attractive offers to the Spanish Government for the retrocession of all this western territory, which the French had originally claimed through the discoveries of their great explorers. This was ever a cherished purpose with the keen and unscrupulous Talleyrand, and when the military genius of Bonaparte had enabled him to gather the power of the French into his own hands, he compelled the Spaniards to exchange these vast and unascertained possessions, for a trifling Italian principality. This done, American statesmen instantly divined that, with the mouth of the Mississippi under the control of the far-sighted and unscrupulous Corsican, who had become the embodiment of French aspirations, it would

not be long before all of our country west of the Alleghanies, watered by navigable streams flowing into that river, would be at the mercy of an alien and antagonistic race. So keen was the sense of danger that Mr. Jefferson, then President, wrote to Livingston, our minister in Paris, "The day that France takes possession of New Orleans * * * we must marry ourselves to the British fleet and nation. We must turn all our attention to a maritime force, for which our resources place us on very high ground, and having confirmed and connected together a power which may render reinforcements of her settlements here impossible to France, make the first cannon which shall be fired in Europe the signal for a tearing up of any settlement she may have made, and for holding the two continents of America in sequestration for the common purpose of the united British and American nations." This is extraordinary language from Mr. Jefferson. The enormous pressure on the presidential mind may be seen, when we reflect that, twenty-six years before, he had written the Declaration of Independence of Great Britain, and only nineteen years before, the treaty of peace with that hostile power had been signed. Hamilton, whose construction of the Constitution differed *toto coelo* from that of Jefferson, was equally urgent. Over the *nom de plume* of "Pericles"

he wrote, "Florida and New Orleans must be seized. We must seize first," he said, "and negotiate afterwards. A war with France may result, but then we can get Great Britain to aid us, and both the army and navy should be increased." You will understand that at this time the peace of Amiens between the First Consul and the British ministry had been signed, but it was easily perceived to be a truce, rather than a settlement of the animosity ever flagrant between those rivals.

Mr. Jefferson lost no time. In a secret session of Congress he obtained an appropriation of two millions of dollars, and hastened James Monroe to Paris, to buy New Orleans from the First Consul. Congress was strong, at the back of the President. The Federalists favored the immediate seizure of New Orleans, but Mr. Jefferson's party preferred to approve his judgment, and authorized him to call out eighty thousand volunteers at his discretion, to build fifteen gunboats for the American waters, and four ships for the Mediterranean. Monroe was very dear to the people of the west, and very popular in France. He had just completed a most acceptable term as governor of Virginia. To him Jefferson exclaimed as he departed: "On the events of this mission depend the future destinies of this republic," and Mr. Jefferson was right.

Now, Mr. Jefferson and his party were of all others the strictest of strict constructionists, and tested by the Virginia rule of interpretation, there was not a line or a word in the Constitution which authorized the purchase of new territory. Mr. Jefferson is generally understood to have been the author of the Kentucky Resolutions, which five years before had made the legislature of that State declare that it would "tamely submit to undelegated and consequently unlimited powers in no man or body of men on earth," and to resolve further, that such submission "would be to surrender the form of government we have chosen to live under, one deriving its powers from its own will and not from our authority." He was known to have approved the famous resolutions of John Taylor, of Caroline, which, in 1793, had expressed "deep regret that a spirit has, in sundry instances, been manifested by the Federal Government to enlarge its powers by forced construction of the Constitutional charter, which defines them, and that indications have appeared of a design to expound certain general phrases so as to consolidate the States by Congress into one sovereignty." Now, here was a proposition to buy unwilling colonists, to pay millions of the people's money for a territory which would in the future inevitably transfer the center of power from the old Revolutionary States to a locality

then inhabited by an occasional squatter, but mainly by savage beasts and more savage Indians. It did not differ in principle, so far as the Constitution was concerned, from those measures of Napoleon, which were daily changing the boundaries of continental Europe. Jefferson's party, with himself, Madison and Gallatin as leaders, had maintained without ceasing that "the United States Government had the inherent right to do no act whatever, but was the creature of the States in union, and its acts, if not resulting from expressly granted power, were no acts at all, but void and not to be obeyed or regarded by the States." No man saw more clearly than Mr. Jefferson the inconsistency of his purpose to purchase Louisiana, with his theories, and so he wrote to Breckenridge on August 12, 1802, that "the Constitution has made no provision for our holding foreign territory, still less for incorporating foreign nations into our Union. The Executive in seizing the fugitive occurrence, which so advanced the good of our country, has done an act beyond the Constitution." He "supposed" that after ratifying the treaty and paying for Louisiana he "must then appeal to the nation for an additional article to the Constitution approving and confirming an act which the nation had not previously authorized." I quote his language. He wrote in the same vein to

Paine, but becoming alarmed for the success of the purchase, he again wrote on August 18th: "I wrote you on the 12th instant on the subject of Louisiana and the constitutional provision which might be necessary for it. A letter received yesterday shows that nothing must be said on that subject which may give a pretext for retracting, but that we shall do *sub silentio* what shall be found necessary. Be so good, therefore, as to consider that part of my letter confidential." To his cabinet he said: "I infer that the less we say about constitutional difficulties the better, and that what is necessary for surmounting them must be done *sub silentio*."

In the presence, however, of the nation's danger the American statesmen, as American statesmen have ever done, wholly refused to be controlled by the narrow subtleties of the strict constructionists. Gallatin, Secretary of the Treasury, wrote to his great leader: "To me it would appear that the United States, first, as a nation, have an inherent right to acquire territory; second, that whenever that acquisition is by treaty, the same constituted authorities in whom the treaty making power is vested, have a constitutional right to sanction the acquisition." And, when Jefferson drew up an amendment to the Constitution which he sent to his cabinet, Gallatin took no

notice of it, except to acknowledge receiving it. Robert Smith, also of the cabinet, dissuaded Jefferson from "grafting so strange a shoot upon the Constitution." Wilson Carey Nicholas, of Virginia, wrote him a letter, which for national doctrine might have come from Washington or Hamilton. Indeed, it was an awful day for the theorists, who deny to the government of the United States those substantial and essential powers inherent to the nation, within the bounds of that sovereignty for which it was designed. In the debate which ensued in Congress, Jefferson's closest followers trampled on the doctrines of strict construction, which had been as dear to them as the doctrine of apostolic succession to the Pope. John Randolph, of Roanoke, had never hesitated to declare his willingness to resist by force, any transgression of the executive, Congress or the judiciary, beyond the express delegations of the instrument. He now treated the Louisiana purchase as a mere question of boundary. He said the power to settle disputes as to limits was indispensable; it existed in the Constitution and involved the power of extending boundaries, an argument which did not distinguish between the adjustment of a line and the acquisition of a mighty empire. Nicholson, of Maryland, a disciple of Jefferson, declared, "A sovereign nation has the right to acquire

new territory." I quote his language, and he added, "The right must exist somewhere. It is essential to independent sovereignty. As it was prohibited to the States the power was necessarily vested in the United States." Cæsar A. Rodney, of Delaware, who had defeated the Federalist, Bayard, appealed to the general welfare clause. Any reference to this clause had been regarded by the strict constructionists as little short of treason, "but," said the Delaware senator, "I cannot perceive why within the fair meaning of this general provision, is not included the power of increasing our territory if necessary for the general welfare or common defense," and he clinched his argument by quoting the clause we are now discussing, which gives to Congress authority "to make laws which shall be necessary and proper for carrying into execution the foregoing power and all other powers vested by this Constitution in the government of the United States or in any department or officer thereof." No Jeffersonian Democrat or Republican, as they were then called, questioned what Randolph, Nicholson and Rodney had said. Randolph, in conclusion, indeed affirmed that the United States Government could lawfully incorporate Great Britain or France into the Union, so far as the Constitution was concerned, but exclaimed, "We cannot, because we cannot." The

upshot of this debate was that every speaker, without regard to party, recognized the truth that the United States had the power to acquire new territory either by conquest or by treaty, although no syllable on that topic appears in the Constitution, and Congress deliberately ignored the several propositions of Mr. Jefferson to amend the instrument in order to ratify the purchase of Louisiana.

In the meantime Napoleon had determined to sell Mr. Jefferson not only New Orleans, which he had sent Monroe to buy, but all of Louisiana. "I renounce Louisiana," he exclaimed to Marbois. "It is not only New Orleans I cede, it is the whole colony without reserve." The truth is Napoleon knew that war with Great Britain was inevitable, and he also knew that the British navy would at once add the Louisiana country to the British possessions. His determination, however, was very unpopular in France, and only the members of Bonaparte's family dared protest. Lucien Bonaparte, in his *Memoirs*, gives an amusing account of the family interview on the subject. Lucien himself had negotiated the treaty of retrocession with Spain, and was very proud of the fact. He was deeply mortified when his brother Joseph told him that the General had determined to sell Louisiana. Next morning he went to the Tuilleries, was admitted

and found Napoleon in his bath, the water of which was opaque with *eau de cologne*. Finally Joseph Bonaparte came in, and Napoleon announced his decision to sell Louisiana and asked Lucien to say what he thought of it. "I flatter myself," said Lucien, "that the chambers will not give their consent." "You flatter yourself," repeated Napoleon in a tone of surprise, then murmured in a lower voice: "That is precious, in truth." An angry colloquy ensued between the brothers until Napoleon, enraged, cried: "You are insolent, I ought"—then threw himself violently back into the bath with a force which sent a mass of perfumed water into Joseph's flushed face, drenching him and Lucien, who had the wit to quote in a theatrical tone the words which Virgil put in the mouth of Neptune reproving the wave, "*Quos ego*," etc. Between the water and the wit, the three Bonapartes recovered their tempers, while a valet, who was present, overcome by fear, had fainted and fallen on the floor. Finally the treaty was signed. It will perhaps be centuries before its value to the United States can be fully appreciated. The price paid was eleven and a quarter million dollars, but in addition to this the United States Government assumed the debts due by France to American citizens, estimated at three million seven hundred and fifty thousand dollars,

making fifteen million dollars in all as the price of the purchase. "You have made a noble bargain for yourselves," said Talleyrand to the American commissioners, "and I suppose you will make the most of it." The astute diplomatist was right. From this territory, thus purchased, the Americans have carved many mighty States. From the vantage ground it gave, they have extended their dominions over the wonderland of the continent, to the shores of the Pacific and into those hyperborean regions where across the dark and restless waters of the Arctic sea the Asiatic possessions of Russia may be seen. By the exercise of the same power, our country has acquired the Land of Flowers, the Riviera of the New World, the noble peninsular of Florida, and Texas that empire within the empire, whose swift advancement and boundless wealth challenge the credulity of mankind. By virtue of the same power, the daring energy of our countrymen, rivaling the volcanic forces which entombed it, have been enabled to appropriate the golden wealth of California and pour its shining opulence into the lap of America. These, and infinitely more than these, have been the achievements of our people under the broad, benign, and national interpretation of the powers of our government. And our Union has gone onward, right onward, in its

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career of strength and glory, until now it has attained that proud station among the nations when its decision of any question which may arise, between the nations of the Old World, and the peoples of these northern and southern continents which Columbus discovered, is shown to possess the force and effect of international law.

NOTE.

The subjoined correspondence will sufficiently describe the occasion on which the following address was delivered. It is believed to be the first formal celebration of the Fourth of July held in Georgia after the expiration of the Civil War. [See Preface.]

AUGUSTA, GA., May 15, 1897.

Hon. Emory Speer, Macon, Ga. :

DEAR SIR:—We have recently organized in this city a society known as the Jefferson Club. Its objects are to “extend a knowledge of our system of government; foster a just appreciation of the blessings afforded by our institutions; inculcate a wider comprehension of the rights and duties of citizenship and promote love of country.” We desire to observe the next Fourth of July by ceremonies, which we are anxious to be altogether worthy. It is necessary that we have an oration befitting the occasion. We are anxious that this, our first celebration, should be an eminent success and we are assured that you can very largely contribute to this realization. At a meeting of our Executive Committee, composed

of the undersigned, held to-day, you were promptly and unanimously invited to be the orator of the day. With the cordial hope that you will, at your earliest convenience, signify your acceptance, we are,

Very truly yours,

J. C. C. BLACK, *President.*

J. R. LAMAR,

GEO. T. BARNES,

JOS. B. CUMMING,

PATRICK WALSH,

D. B. DYER,

FRANK G. FORD,

E. B. HOOK.

CHAMBERS UNITED STATES JUDGE,

MACON, GA., May 19, 1897.

Honorable J. C. C. Black, President, Messrs. J. R. Lamar, Geo. T. Barnes, Jos. B. Cumming, Patrick Walsh, D. B. Dyer, Frank G. Ford, and E. B. Hook, Members Executive Committee Jefferson Club, Augusta, Ga.:

GENTLEMEN:—In reply to your letter of the 15th instant, inviting me to aid in the celebration of Independence Day, so propitiously purposed by your Society, I write at the first opportunity that I accept your invitation with great pleasure.

Fortunate is the purpose of thoughtful and high-minded men in your noble city, with its stirring Revolutionary memories, to devote themselves to the elevated objects of your

Society ; felicitous the design to celebrate the glorious anniversary of the day which witnessed the birth of our nation in the adoption of the immortal Declaration. May it be true in the bright future of our country, whose mission for civilization and free government is scarcely begun, that every American community will imitate your example.

I am indeed grateful that you have afforded me the privilege of participating in your patriotic endeavor, and remain, gentlemen, with great respect,

Faithfully yours,

EMORY SPEER.

LET US REVIVE THE AMERICAN SPIRIT.

Mr. President and Fellow Citizens :

This occasion and these ceremonies are inspirational. The opportunity of presence and participation would seem inestimable to the sentient and the patriotic. Let me certify that by one, at least, it will be cherished with pride and pleasure, with "miser care," while memory may perform its functions, and distinguish the outlines of life's happiest events. In obedience to the venerable custom of a glorious past, the sons and daughters have assembled to celebrate in the manner of the fathers, our country's natal day. And, sir, the auspices are most propitious. The sacred augur of ancient Rome, when his piercing eyes swept the Templum in the sky, neither from the winged inhabitants of the upper air, nor from the transverse dartings of Jove, might gather an augury so hopeful for the Republic, as may be seen in the unselfish patriotism, the ennobling Americanism, of these high-minded men who have formed the Jefferson Club, and

who have promoted anew the celebration of Independence Day, to fan into lucent and benignant flame, that love of country, whose steady warmth the storms of civil war may have smothered, but could never extinguish. And, sir, if the occasion and the purpose is inspirational, not less inspiring is the environment. Here, daughters of Georgia, whose beauty and youth personify the sister-states of the Great Republic, recall the "white-robed choir," who on the battlefield of Trenton, as he journeyed to his first inauguration greeted and charmed the Father of his Country. Here the soil on which we stand is historic. This day one hundred and sixteen years and one month ago, after merciless and desperate fighting, here, within the compass of my voice, there was achieved a signal and glorious triumph of the American arms. The Grecian peasant, dulled by centuries of tyranny, may till the soil of Marathon, or bear his burden over Thermopylae, and think not of Miltiades or Leonidas, and go unconscious that there were wrought deeds and achieved fame which History, proud of the sacred treasure, marches with to latest times. Not thus with the immortal past, and with the immortal names of our nation of kindred men. Let us then, on this day, first briefly recount those historic events which are incident to your famous city, and which

should impart to it the renown of being the only fortified post held by the British, save Yorktown, which, by the valor and military skill of our countrymen, was reduced by regular approaches and the garrison made prisoners of war.

It is hard for us, in these days, to conceive that Augusta, now the pride of Georgia, was then as a thorn rankling in its side. It was then the fortress of our powerful and implacable foes, and gloomy, indeed, were the fortunes of our country when a few heroic men determined to wrest it from the British. Lord Cornwallis, commanding the royal forces in the South, had issued to his subordinates a sanguinary order, which was a flagrant violation of the rules of civilized war. "The inhabitants of the provinces," the order ran, "who have subscribed and taken part in this revolt should be punished with the utmost rigor; all those who will not turn out shall be imprisoned and their whole property taken from them or destroyed. I have ordered in the most positive manner that every militiaman who has borne arms with us, and afterwards joined the enemy, shall be immediately hanged. I desire you will take the most rigorous measures to punish the rebels in the district in which you command, and that you obey, in the strictest manner, the directions I have given in this letter

relative to the inhabitants in this country.' A copy of these instructions were directed to Colonel Brown, who was in command of Augusta. Just before the war broke out, Brown had been a resident of this town, and his conversation was objectionable to the patriots. He had been arrested, tried, convicted of treasonable sentiments, tarred and feathered, and paraded about the town in a cart drawn by three mules. This treatment seems to have exasperated Brown, and permanently embittered his feelings toward the American patriots. Placed in command here, he had sequestered the property of the inhabitants, he had banished their families beyond the limits of Georgia, and the day after the barbarous instructions of Cornwallis were received in Augusta, Brown caused to be taken from the jail, and hanged, five unfortunate prisoners of war. This barbarity not only failed to intimidate the patriots, but fired them with implacable resentment.

A county in Georgia yet famous for its spirited and high-minded people, was the hottest of all the hot-beds of patriotic sentiment. By the Tories it was called "The Hornets' Nest." It was the county of Wilkes, before then named for John Wilkes, that famous and somewhat exasperating English patriot, the editor of *The North Briton*, and the champion of free representation in the British Parliament. Its county town

then, as now, was Washington, named before the Revolution in honor of the young Virginian colonel, whose gallantry at Braddock's defeat had won the applause of two continents. In Wilkes county, Col. Elijah Clarke now mustered three hundred and fifty men. Colonel McCall, with a small party, joined him, and they moved rapidly upon Augusta, which was reached on the 14th of September, 1780. The Indian allies of the British, firing upon the Americans, gave the alarm to the garrison. Brave, though brutal, Brown, leaving the lower forts to their fates, threw a strong party in the White House, standing a mile and a half from where we are now assembled. The Indians, with deadly aim, fired upon the Americans from the fringe of trees on the river bank. Reinforcements were received by Brown from across the river during the night, but the Americans, with the utmost tenacity maintained the attack. Before daylight on the 16th they had succeeded in routing the Indians from their natural fortress made by the bluff on the river, and had successfully cut off the water supply from the British at the White House. The constant fire of the American rifles had slain and wounded many of the garrison, and the wounded suffered the most exquisite pangs of thirst. Brown himself had been shot through both thighs, but the fierce courage of his cruel and

savage temper never faltered. He announced his fixed resolve to defend his post to the last extremity, and finally the American commander, advised by his scouts that Colonel Cruger was swiftly coming with a large force to relieve the beleaguered garrison, raised the siege and retreated. The American loss was sixty killed and wounded. And now occurred an instance of barbarity an eternal disgrace to the British arms. Captain Ashby, of the American forces, and twenty-eight private soldiers, too desperately wounded to be removed, were left behind and were captured. This brave officer and twelve of his comrades were carried into the White House, where Brown was lying wounded, and for his murderous pleasure, were hanged from the staircase, that his sufferings might be palliated by the spectacle of their humiliating death. Seven others, two being youths of fifteen and seventeen, all bearing familiar Georgia names, were hanged on an extemporized gallows. Other prisoners were delivered to the Indians, and at a spot where their cries of agony and the demoniacal yells of their savage torturers might have been heard from where we stand, were put to death with all the horrid features of Indian malice. Seventy warriors had fallen under the deadly fire of the patriots, and thus did Brown atrociously revenge them.

It is proper that I should say that these facts are verified by that admirable work, the History of Georgia, by the late Col. Charles C. Jones, Jr., whose untiring and disinterested literary labors, were as honorable to himself as they are valuable to this city of his home and his love, rich in the glorious traditions of its romantic and heroic past.

It is true that at no time during the seven years of the Revolution, and in no part of the thirteen States was the conflict so fierce, or the hostility of the contending parties so unrelenting as in the period of which I speak, and in the Georgia and Carolina country contiguous to Augusta. Agricultural labors were suspended, innumerable homes were destroyed by the torch of the Tories. Finally, the women and the children, bearing their humble and pathetic belongings, assembled, a pitiable gathering, and implored the protection of the distressed but undaunted Americans. The bravest are the tenderest, and their prayers were answered. Escorted by the stalwart riflemen of Clarke, like the Helvetii of classic story, they took their way northward. For eleven days they journeyed, threading primeval forests, ascending wooded vales watered by crystal streams and glowing with the enchanting colors of autumn. They toiled over lofty mountains clothed with the balsam and the

rhododendron, and finally received a loving welcome from the noble Tennesseans, whose homes and farms lie along the beautiful and fertile valleys of the Wau-
tauga and Nolichucky, while the vigorous manhood of that romantic region was even then hastening to deal a death blow to the Tories on the wooded summits of Kings Mountain. And, thank God, it was not to be long before the suffering women and children of Georgia could return to their homes ; homes of peace and plenty, the abodes of liberty and love. It was not to be long before our country, with no hostile foot upon its soil, its people in the enjoyment of that independence we celebrate to-day, entered upon a swift and steady progress upon all the paths of civilization, the phenomenon of the age, the marvel of statesmen and statisticians of every land, blessing seventy millions of people with the largest share of personal liberty of which history affords the account, and our Union, with a plenitude of comfort and contentment unsurpassed by any other nation lighted by the sun in its beneficent progress around the world. And, oh, animating thought, here, on Georgia's soil, the culminating triumph was won, the last decisive blow, save Yorktown, was discharged upon the merciless soldiery of an obstinate and a demented monarch. When Lord Cornwallis marched northward on his Virginia

campaign, to terminate at Yorktown, General Greene, commanding the Southern Department, determined to reduce Augusta. The intrepid Clarke being disabled by smallpox, Lieut-Col. Micajah Williamson assumed command of the patriot forces in Georgia. Colonel Baker soon joined him with the militia from South Georgia. Captains Dunn and Irwin recruited a small force in Burke county, and Col. Leroy Hammond and Maj. James Jackson brought fighting men from Carolina. It is delightful to reflect how these Revolutionary names are yet preserved in our homogeneous Georgia Americanism. A Micajah Williamson lived in Jackson county not long ago, "Old Man Micajah," he was called. The names of the Bakers, the Dunns, the Irwins and Hammonds are as familiar as household words. Then, also, there are, and have been, multitudinous descendants of Major Jackson, soldier, Governor of Augusta, representative in Congress, Senator and Governor of Georgia, a doughty warrior, who inscribed his name on the temple of fame with the same vigorous distinctness with which he slashed the physiognomies of Tarleton's troopers or plunged his sabre into the mid-ribs of Brown's Florida outlaws. He it was, it is said, in after years, became the instrument of Heaven to burn with celestial fire the legislative record of the Yazoo

fraud. He was gallant, vigorous and dramatic always. An irreverent historian has published of this great Georgian that when, as a member of the First Congress, he spoke in the House, the Senate was compelled to close its windows in order to exclude the volume of sound, but we may perhaps conclude that this animadversion is due to the fact that no Congressman from the historian's State could rival the trumpet tones of Jackson, and the historian himself is possibly inflamed by that envy "which hates the excellence it cannot reach." The far-sounding voice of Major Jackson was now to be of inestimable value. We are told by the historian that the Georgia militia, wearied with war, were about to depart for their homes, when the major, eloquent of speech as he was daring in battle, addressed them in an exhilarating oration, which revived their sinking spirits and recalled them to their duty. May I digress to say it has been ever true that the citizen soldiery of our country, when they assume the panoply of war, lose none of their fondness for the captivating genius of the orator. What member of his famous corps fails to recall the acclamations of that incomparable infantry, when the gallant Gordon spoke. And are we not all familiar with the renown of the soldier orator from the "Dark and Bloody Ground," now Georgia's adopted son, the honored

President of the Jefferson Club? Do we not know how his unpremeditated sentences were wont to enliven and charm his comrades of that trebly adventurous stock, which crossed the Atlantic to Virginia, and the mountains to Kentucky, and "left the old Kentucky home far away" to fight for the South with all the desperate valor of his heroic race, but now in a nobler, sweeter strain pleads for the love and the glory of our reunited land?

But now the hopes of the patriots, already high, were to be brightened. Now came from many victories over British and Tory foes, the seasoned veterans of Gen. Andrew Pickens, and the famous Legion of Lieutenant Colonel Lee, the renowned "Light Horse Harry." These distinguished officers were ordered by General Greene, to the dangerous duty of taking Augusta, and of destroying the fierce and desperate corps commanded by Brown. They were both patriots of the highest renown. Pickens was that irreconcilable contradiction, I may say that *lusus naturae*, a Puritan from South Carolina. "He was a patriot in thought and deed." His features, like those of Wellington and Cæsar, must have been, to quote the words of Cowper, "terribly arched and aquiline," for, to this day, a mountain near the northern boundary of Georgia, resembling in its contour the beak of the eagle, is

called "Pickens' Nose." He was voted a sword by Congress in honor of his soldierly bearing at the battle of Cowpens, where the close and deadly fire of the Georgians and Carolinians under his command had merited the plaudits of General Morgan himself, the veteran commander of Washington's famous riflemen. Lieut. Col. Harry Lee was perhaps the most famous cavalry officer of the Continental army, and the contemplation of his character and career will ever awaken the liveliest sensibility. He was the father of Gen. Robert E. Lee, and his illustrious son, whose military and personal character will, to the remotest times, remain a common heritage of the American people, has written a brief biography of his father. Colonel Lee was a student of Princeton College, a famous nursery of statesmen and soldiers of the Revolution, under that Dr. Witherspoon, whose elevated character, noble patriotism and lucid eloquence contributed in the Continental Congress, to the adoption of the Declaration of Independence. The young Virginian, as we learn from the Memoirs by his son, was preparing himself for the profession of the law, and was about to embark for England to pursue that study, when the commencement of hostilities with the mother country changed his destiny. Shortly after the battle of Lexington, at the age of nineteen, he entered the

army as captain of cavalry. He took part in the battles of Brandywine, Germantown and Springfield, and others. General Lee writes that he early became a favorite with Washington. His biographer, however, does not state, what is nevertheless true, that the young captain of cavalry was the son of Lucy Grymes, "the Lowland Beauty," who made the first and perhaps a permanent impression on the susceptible heart of the great Virginian. This, of course, was before Washington had met and married the charming little widow, Martha Curtis, and while his constancy to Lady Washington, as she was ever called, has never been impugned, we may perhaps believe that oftentimes on the long and weary march, or in the silent watches of the night, the youthful and manly beauty, the engaging vivacity and heroic daring of Light Horse Harry, brought back to the pensive memory of the Father of his Country, the beauty and the charm of those features that love used to wear. But it was not to the romantic nature of his commander-in-chief, or to the indulgence of that great man in the memory of joys that were gone, that Light Horse Harry was indebted for his military distinction. He was always near the enemy, in command of outposts, leading scouting parties, and in all duty requiring coolness, address, and enterprise. So annoying was he to the British

garrison in Philadelphia, that while the Continental army was stationed at Valley Forge, they made a special effort to capture or to kill him, which his daring and skill defeated. When the war had gloriously ended, he represented the Old Dominion in Congress, and was the governor of that noble commonwealth. Deputed by the Congress of the United States to pronounce an eulogy on the dead Washington, he uttered of his immortal friend and commander-in-chief those undying words, "First in war, first in peace and first in the hearts of his countrymen."

But, although Colonel Lee has written with his sword his autobiography on many pages of Revolutionary history, his principal military achievement was the capture of Augusta. On the way with his Legion from Ninety-Six to join the besiegers, he received intelligence that there had just arrived at Fort Galphin, about twelve miles below Augusta, on the Carolina side, the annual present which King George bestowed upon his Indian allies. This deposit was very valuable, especially to the patriot forces, who were badly supplied. It is stated by Colonel Lee, in his *Memoirs of the War in the Southern Department*, that his force was greatly exhausted by the extreme heat of the scorching sun, and were "without any liquid whatsoever to revive sinking nature," and

although the post was guarded by two companies of British infantry, its treasure was swiftly captured. It consisted of powder and ball, muskets and rifles, salt, blankets, with sundry small articles, and a liberal supply of Jamaica rum. "Never," writes Light Horse Harry, "was a beginning more auspicious."

After securing this treasure, Lee, with the Legion, pushed on to join Pickens, at Augusta. Crossing the river at the Sand Bar Ferry, he moved through the forests, which then covered the plain on which the city stands, and took his position on the American lines to the west of the town, then containing only a few hundred inhabitants. Fort Cornwallis, the principal fortification of the British, occupied the ground where that venerable and sacred edifice, St. Paul's Episcopal church, now stands. Another fort, called Grierson, in honor of the Tory officer who commanded it, was located half a mile to the westward on the northwestern border of a lagoon or drain, which connected Beaver Dam creek with the Savannah river, and close to the bank of the river. The intrepid Brown commanded in person in Fort Cornwallis. This work was judiciously constructed, and with its ramparts and batteries, manned by his ruffian, but veteran troops, was pronounced by the experienced American commanders to be secure from assault.

Colonel Lee, who was of the regular army, and more observant of the honors, and punctilious of the profession of arms than the partisan officers, Clarke and Pickens, forwarded to Brown, by the hands of Colonel Eggleston, a regular Continental officer, a formal demand for the surrender of the post. His messenger was received with scornful silence. The proud Virginian writes that he was "considerably ruffled by this affrontive rejection of his proffered negotiations." He determined to waste no more civilities upon Brown, and while his troops still concealed, were still engaged in taking refreshments, he examined the ground, devised the plan of attack, which was at once adopted by Pickens and by Clarke, who had now rejoined his command, and immediately made. Perceiving that the loyalists at Fort Grierson were separated from the regulars at Fort Cornwallis, Colonel Lee moved down the southern margin of the lagoon along what is now Cumming street, to anticipate Brown if he should fly to the assistance of Grierson, while the direct attack on the western fort, about the site of the Riverside Mills, was entrusted to the troops of Pickens and Clarke. The plan was felicitous, and its execution was fortunate. The Georgians and Carolinians swept to the attack. With enthusiasm and fury, born of innumerable outrages by the cruel wretches

behind the entrenchments, the deadly marksmen of Pickens and Clarke, speedily mastered the fire of the Tories and expelled them from the fortress. In the desperate effort to make their way along the river bank to Fort Cornwallis, they were smitten by the avenging rifles of the Americans. Thirty were killed and forty-five were wounded and captured, and among the latter was Grierson, the Tory commander, himself.

Colonel Lee, trained under the magnanimous eye of Washington, and accustomed to observe all the humanities of war, deplores the fact that Colonel Grierson, after his surrender, was shot dead by a Georgia rifleman. Indeed, he offered a reward for the apprehension of the party by whom it was done, but without avail. He who aimed the shot was said to be one of the sons of Mr. Alexander, a venerable patriot, who, in his seventy-eighth year, had been arrested by order of Colonel Grierson, chained and dragged at the tail of a cart forty miles in two days, and when he sought to obtain rest for his feeble limbs by leaning against the vehicle, had been shamefully scourged by the Tory driver. Time forbids that I should give in detail the progress of the siege ; with what bull-dog determination Brown held his works ; with what fierce sorties he attempted to check the progress of the besiegers ; with what unflinching valor the Maryland troops of the

Legion, under brave Captain Handy, at the point of bayonet, drove him from the trenches, and hurled his bleeding columns back into their own lines ; how Brown repeated the effort ; how Major Rudolph, with the North Carolina battalion, in a hand to hand combat with bayonet and butt of gun again repelled the desperate enterprise of the beleaguered garrison. Of this Captain Rudolph, it is interesting to know that years afterward, when a solitary old man, dwelling in North Carolina, he was by thousands inaccurately believed to be the disguised Marshal Ney, Napoleon's "bravest of the brave." Step by step the Continentals were drawing their deadly coil around their desperate foemen. It is related that it was almost certain death for a member of the garrison to expose himself even for a moment. And when finally the skillful soldier who was directing the operations, by the erection of the famous Mayham tower, and by placing a six-pounder thereon, succeeding in searching every part of the fort with its deadly missiles, after an investment of about five weeks and a siege of fifteen days, a capitulation was signed. On the morning of the 5th of June, 1781, the British garrison marched out, and Major Rudolph had the honor to take possession of Fort Cornwallis. Augusta had fallen, and King George held no part of our

commonwealth, save that covered by the guns of his ships anchored in the river at Savannah.

This imperfect narrative has comprehended the deeds of many whose descendants are before me, and pardon me, sir, if I say that with those gallant Carolinians who swarmed over the parapets of Fort Grierson, was the ancestor of him who has been honored with the privilege to speak to-day of those heroic times.

Not remotely, but here, under the canopy of Georgia's sky, here where now as then the eternal hills of Carolina and Georgia form an amphitheater where the nations might have witnessed, here where now, as then, the "sweet south" woos the woodlands, and the fields, and the broad Savannah bears its silent volume to the sea, here, as the hearts of our embattled sires bounded with exultation and their eyes filled with tears of gratitude and joy, stalwart sons of freedom unfurled the gorgeous colors of our country above the battle-grimed ramparts of Fort Cornwallis, and the meteor flag of England, vanquished, fell, to rise no more in victory on Georgia soil.

How fitting then is the resolve of this people, that this day, consecrated as it is to the genius of the Revolution, shall be their annual and crowning festival. Such celebrations impart tone to the public mind and conscience. It is written by the Roman historian, Sallust :

“ Often have I heard that Quintus Maximus, Publius Scipio, and other renowned men of our commonwealth used to say that when they beheld the images of their ancestors, they felt their minds vehemently excited to virtue ; the recollections of their great actions kindled a generous flame in their breasts, not to be quelled till they also by virtue had acquired equal fame and glory.” Shall we not then commemorate the heroic days of old, the heroic men of the past, for the emulation of our youth, for the inspiration of our strong manhood, for the pride and satisfaction of that venerable age with whose declining years a kindly Providence has bestowed the pleasures of memory? Shall we not verify the prophetic thought of John Adams, given expression in the burning words of Webster : “ We shall make this a glorious, an immortal day. When we are in our graves, our children will honor it, they will celebrate it with thanksgiving, with festivity, with bonfires and illuminations. On the annual return they will shed tears, copious and gushing tears, not of subjection and slavery, not of agony and distress, but of exultation, of gratitude and joy.”

Mr. President, the catholicon for our country is the old American spirit. With that all things else will be added unto us. There is a fervor, in the American imagination, relating to all matters of a patriotic

character, which is the source of enormous national power. Millions have thrilled at the sweet thunder of Patrick Henry, in the old church in Richmond : “ We have remonstrated, we have supplicated, we have prostrated ourselves at the foot of the throne, and implored its interposition, but all in vain. We must fight. I repeat it, sir, we must fight. An appeal to arms and to the God of Hosts is all that is left us.” Then towering with his sinewy form like a giant before the gleaming eyes of the patriot Virginians, and gathering all the music and power of that marvelous voice, in one sentence to ring that diapason of the ages to come : “ I know not what others may think, but as for me, give liberty or give me death.” What fountains of tears have gushed in proud and sweet love of country, inspired by the noble and indignant lyric thrown off by the genius of Oliver Wendell Holmes, when some bureaucrat proposed to break up Old Ironsides. What millions of strong American lads, aye, and lassies, too, have been moved to high resolve while their young hearts were flaming with its melody and its fire. And do not strong men glow with a patriot’s pride when it is remembered how, under the gallant Hull, in thirty minutes her broadsides dismantled and cut to pieces the fine British frigate, *Guerriere*, and how her gallant commander reported :

“It gives me pleasure to say that, from the smallest boy in the ship to the oldest seaman, not a look of fear was seen. They all went into action giving three cheers and requesting to be laid alongside of the enemy.” And how, under the brave Bainbridge, she fell in with and captured his Britannic majesty’s frigate, Java, of forty-nine guns and upward of four hundred men, with Lieut. Gen. Hisslop, Governor General of Bombay, aboard, with his gorgeous staff. You must remember that if there was anywhere a gentleman who was convinced of his native superiority to all created beings, it was the commander of one of his Britannic majesty’s ships of war. Had not his favorite poet, Campbell, sung :

“Britannia needs no bulwarks,
 No towers along the steep,
 Her march is o’er the mountain wave,
 Her home is on the deep.”

It is an enchanting picture Lieut. Gen. Hisslop, Governor General of Bombay, beholds when the Constitution is bearing down on the Java. The American ship is a beauty and her ensign is floating in the soft breath of the tropics, but the British commander could not see what is plain to our American eyes :

“ Above the swelling, tossing flag
 On Freedom's gale outblown,
 With eyes ablaze and talons stretched,
 The eagle guards its own.

From side to side its fearsome head,
 With restless watch is swung,
 And woe betide the foe on whom
 That burning glance is flung.”

Nor could he see the American soul flaming in the breasts of the noble Bainbridge and his mighty tars, soon to be voiced by the crush of the Constitution's guns.

But, fellow citizens, protracted, bloody and terrific as were the struggles to win and maintain our independence, is not this great country of ours worth all the treasure, suffering and love it has cost, and does it not warrant the burning patriotism of its people?

In one of those triumphant and grateful strains with which the royal Psalmist of Israel extolled the beneficence of Jehovah, he exclaimed: “The lines are fallen to me in pleasant places. Yea, I have a goodly heritage.” But how insignificant was the kingdom of David, when contrasted with the marvelous, the varied, the diversified, the opulent dominion of this people. The goodly heritage of the Hebrew king comprehended a rugged territory one hundred

and forty-five miles in length, with an average of forty-five miles in breadth. What imagination can grasp our National domain of three billions of acres, or, to use the form more common in geography, three million five hundred and fifty-seven thousand and nine square miles, surpassing by twenty-five thousand square miles the entire territory of Europe? And what were the mountains round about Jerusalem, what the cloud-capped summits of Hermon or Hebron, or Gerizim, compared with those towering peaks of the Sierras or the Rockies, whose lofty cones forever repose in the icy desolation of eternal winter? What were the cedars of Lebanon, whose tossing plumes are extolled in the rapturous poetry of the Scriptures, when compared with the great red woods of the Pacific slope, the *sequoia gigantea* of the Yosemite Valley? And, Sir, he who traverses the primeval forests of our own Georgia pines may well recall the devout lines of the poet :

“ Father thy hand
 Hath reared these venerable columns,
 Thou didst weave this verdant roof,
 Fit shrine for humbler worshipper to hold
 Communion with his Maker.
 These dim vaults, these winding aisles of human pomp or
 pride report not.

But thou art here, thou fill'st
 The solitude. Grandeur, strength and grace,
 Are here to speak of thee. This mighty oak—by whose
 immovable stem I stand and seem
 Almost annihilated—not a prince
 In all that proud old world beyond the deep
 E'er wore his crown so loftily as he
 Wears the green coronal of leaves with which
 Thy hand hath graced him."

Consider alone the vast empire of Florida, bounded on one side by the restless surges of the Atlantic, and on the other by the Mexican Gulf, which pours forth that mighty stream, the "wandering summer of the seas." Here nature seems to have emptied from her cornucopia all the vegetable treasures of both temperate and torrid zones. Here may be seen the sweet corn and coffee, the grape, the guava, the pumpkin and the pineapple, the tomato and tamarind, the melon and mango, the squash and sapodillo, the lime, the lemon, the citron, the cocoanut and the orange. Solomon, the wisest man the world e'er saw, has spoken of arboreal treasures "from the cedar tree that is in Lebanon to the hissop that springeth out of the wall," but neither he nor any of the great men of antiquity knew of that genus of the grasses which we term the Indian corn, the most

prolific, the most valuable, and, to my eye, the most beautiful of all of the cereals known to man, worth more than all the gold of Ophir or diamonds of Golconda. This marvelous crop in our own country yielded in the year of Our Lord, 1896, a crop of two billion two hundred and sixty-nine million bushels, enough to furnish a daily cake for one whole year to every man, woman and child on the globe. And, Sir, it would be an unpardonable omission in this great manufacturing city, whose opulence now, as in the past, is largely attributable to the snowy luxuriance of our royal staple, if I should fail to pay my respects to King Cotton, the sovereign whose reign has been but a little longer than that of the gracious queen, the sexagesimal anniversary of whose beneficent rule has kindled the responsive enthusiasm of the world. Indigenous to Asia and Africa and as well to America, cotton was cultivated in Egypt and India from a time whereof the memory of man runneth not to the contrary. But the aborigines of this country manifested but little aptitude for its growth or manufacture, and it is a remarkable fact that previous to the Revolution our colonial ancestors had not exported one bale of cotton to the Old World. There may yet be seen in the neighborhood of Savannah the vats used by the planters of indigo, on which, together with the

silk worm, the illustrious Oglethorpe mainly relied for the productiveness of the colony his benevolence established. Indeed, as late as 1784, when a little cotton found its way to Liverpool in an American vessel, it was held to be an unlawful importation on the ground that it could not be grown in the United States. Even our Southern statesmen did not know that their climate and soil was peculiarly adapted to the culture of this beautiful staple. It is amusing to read in Lloyd's Debates, Vol. 1, page 79, that Mr. Burke, a member of the House of Representatives from South Carolina, said that cotton was in contemplation as an article of produce by the planters of South Carolina and Georgia, and that if good seed could be procured, he hoped it might be successful. The coveted seed were obtained and planted. The crop in 1794 amounted to only two million pounds. In 1894 nine million nine hundred and ninety-nine thousand two hundred and fifty-one, not pounds, but bales, showed that the Southern States of our Union alone have added billions to the wealth of our country.

In 1829 there was but one railroad in the United States. It stretched from Honesdale to Carbondale, Pennsylvania. It was the proud proprietor of a small locomotive called the "Stourbridge Lion," because it was imported from a manufacturing town of that

name in England. The road next constructed, I am proud to say, was that great thoroughfare from Augusta to Charleston, projected in the fall of 1829, and the most gigantic enterprise of the kind in the world at that time. My grandfather, Alexander Speer, then a member of the South Carolina legislature, was one of the committee to test, on the banks of the Congaree, the traction power of the locomotive engine as compared with mules and horses. "Gentlemen," said Horatio Allen, the chief engineer, "there is no reason to expect any improvement in the breed of horses, but the man is not yet alive who can foretell the improvement in the breed of locomotives." Had Allen, who died in 1889, lived half a dozen years longer he could have said that he had acted as locomotive engineer on the trial trip of the "Stourbridge Lion," and had lived to see his country traversed by one hundred and eighty thousand six hundred and fifty-seven miles of railway, equipped with thirty-five thousand six hundred and ninety-nine locomotives, and every one of them, when compared with the "Stourbridge Lion," a miracle of mechanical perfection and powers.

But what may we not say of the mineral and metallic wealth of our goodly heritage. When in 1848 a few glittering particles of gold were discovered in the

gravel of Captain Sutter's mill race in California, and the attention of an excited world was directed to the auriferous slopes of the Sierra Nevada, in a little more than a decade of years, the hydraulic mines along the tributaries of the San Joaquin and Sacramento rivers yielded gold to the value of nine hundred millions, placing our country at the head of all the gold producing nations on the earth. And yet, Sir, after all, what is the gold of California or Colorado, or the silver of Montana and Nevada, when compared with the iron of the eight or nine hundred mines scattered all over these United States? There is but little difference between gold in the form of ingots or bullion, and gold that has been coined. How different the case with iron. The modern metallurgist has achieved what the old alchemist failed to discover. The artificer of the present day transmutes the base metal into gold by simply changing its quality and its form. A manufacturer of iron or steel can take a ton of pig iron, worth only eight or ten dollars, and convert it into drawn wire for fish hooks or needles, or telegraph or telephone lines, and behold the metal has increased in value a thousand fold. It can be sold for eight thousand dollars. If converted into pinion wire for clocks, it is actually worth forty-three thousand two hundred dollars a ton. And spring wire for watches

is worth four hundred thousand dollars, while the nerve extracting wire used by dentists is worth two million one hundred and fifty thousand dollars per ton. Now, when we reflect that our mines yield nearly eight million tons of pig iron, worth in that form seventy-five million to eighty million dollars, and our silver mines yield sixty-four million dollars, and our gold mines, not including recent wonderful discoveries in Alaska, forty million dollars, to say nothing of copper, tin, lead, quicksilver, it will be seen how incalculable is the mineral wealth of our country. One other marvelous product I will mention, and then if I can find a pessimist before me I stand ready to commit him to a comfortable sanitarium for those incurables who never enjoy a lucid interval. The early settlers of New York, Pennsylvania and Western Virginia were acquainted with certain bad-smelling springs, the flow from which was sometimes bottled and sold at twenty-five cents a gill under the name of Seneca oil. This unctuous substance was a panacea for rheumatism and many other ills that flesh is heir to. Even by the rustic dwellers on Oil Creek, in Venango county, Pennsylvania, it was not used as an illuminating agent, but they pursued the even tenor of their way with no light save the pine knot and tallow dip. Little did they dream that the day was at hand when their fields

would be filled with the thunder of machinery, with derricks, artesian augers, oil tanks, vast refineries, far-reaching pipe lines. For myself, I am free to say that I never heard of kerosene oil until after the war. The first oil well began to yield the coveted liquid in August, 1859. These wells have multiplied as by the agency of Aladdin's genii. Pennsylvania alone in nine months, ending March, 1896, produced six hundred and fifty million six hundred and seventy-six thousand nine hundred and seventy-four gallons. And when there is added to the product of that State the outcome from the great oil industries of West Virginia, Tennessee, Kentucky, Indiana, Ohio, Missouri, Colorado and California, you may well be prepared to believe the statisticians who tell us that the oil wells of the United States employ capital amounting to five hundred million dollars ; that they use thirty thousand miles of pipe lines, ten thousand tank cars, vast fleets of steam and sailing vessels to transport refined petroleum to the remotest regions of Europe, Asia and Africa. The American product sheds its welcome beneficent light for the ranchmen of Australia, and the Boer of South Africa, in the hovels of the Russian peasant, and on the streets and in the homes of Constantinople, Damascus, Delhi, Calcutta, Peking and Yokohama. No product of the century has done more

to increase the spread of knowledge, for it gives the humblest the opportunity to read and to study. With its benign assistance the poorest workman in the land, by "toiling upward in the night," may so train his understanding and cultivate his taste that he can exclaim with the poet—

"My mind to me a kingdom is
So great a joy therein I find
As doth exceed all other bliss
That God or Nature hath designed."

I may not, Mr. President, within the time appropriate to these exercises, recount those famous incidents which led to the creation of our political union, with the "shot heard round the world" at Lexington, nor to that mighty debate which culminated in the Declaration of Independence, penned without book or document to aid him, by the immortal hand of Jefferson, nor to the formation and the adoption of that Constitution which has preserved all those blessings the Revolution made possible. I will, however, put it to your impartial judgment, if it has not accomplished the noble purposes of government outlined in its preamble? "To form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and

secure the blessings of liberty to ourselves and our posterity." Nor may I recount how our advancing civilization, always with due respect to the rights of the States, and with the approval of thoughtful men everywhere, has entrusted to the general government vast interests of whose existence our fathers never dreamed. Nor how, when the rights of our own citizens, or the interests of other republics of this hemisphere have been affected, our country has occasionally interposed among the nations of the Old World, not to supplicate or protest, but to counsel and decide, until in such matters the settled will of the American people has attained the force and authority of international law. Nor need we set forth the colossal military power of our united country. The arbitrament of war, which settled adverse theories of the Constitution, opened the eyes of mankind, and they saw the prowess of this American people on many stricken fields. Then it was a fight between brothers, and now the brothers, thank God, are shoulder to shoulder under one flag, and that the flag of our fathers, "still full high advanced, its arms and trophies streaming in their original lustre, not a stripe erased or polluted, not a single star obscured, bearing for its motto in characters of living light blazing on all its ample folds, Liberty and Union, Now and Forever, One and Inseparable."

A few days ago, in the land of old and great renown from which we sprung, on a mighty arm of the sea, reposed a majestic flotilla. The navies of the nations were there, with fluttering signals and thundering guns, to do honor to the noble wife and mother, who for sixty years has gently and firmly directed the fortunes of the English speaking race, save in that independent nation, whose immortal birth we commemorate to-day. The ceremonies of the day had ended, and night had fallen on the waters. Untold thousands from every land, in craft of every kind, and thronging the shores, awaited the moment when the mighty Armada would burst into glorious illumination in honor of the Empress Queen. It came, and perhaps since the divine edict, "Let there be light," no more gorgeous corruscation effulged before the eyes of man. Again, in an instant, impenetrable darkness brooded o'er the scene, when lo! there leaped forth from the search light of our country's gallant cruiser a brilliant ray which fell upon the flag as it floated at the yard-arm of the Brooklyn. Naught else was in the eyes of that vast multitude. There in its unsullied beauty, surrounded by the floating and sombre castles of monarchy, it gleamed, the symbol of a free and mighty people. And, oh, toiling, suffering millions of other lands, borne down as thou art by the mailed hand of

power, thy statesmen robbing the nations of their youth, to make them food for powder, thy rulers breathing out threatenings and slaughter, couldst thou but know the liberty and light it gives, that banner in the sky would be to Czar and Kaiser as the light that blinded Saul of Tarsus, and the Brotherhood of Man would cry unto them, "Why persecutest thou me?" May Omnipotence ordain that the Flag of our Fathers shall be the sign in the sky, in which that Brotherhood shall go on conquering and to conquer until it shall wave above earth's prostrate thrones, and its bright stars shall guide the nations to the perfectibility of man.

INDEX.

Numbers Following Subjects Indicate Pages of the Volume.

- Adams, John ; his character, 45 ; elected Vice-President 88 ; never forgave Hamilton, 88 ; with Samuel Adams recommended Washington for Commander-in-Chief, 37 ; seconds Lee's resolution, 43 ; first minister to Court of St. James, 65 ; death of, 48 ; words, by Webster, attributed to him, 138.
- Adams, Samuel, hesitates to favor adoption of Constitution, 81.
- Adoption of Constitution, opposing forces, Friends have the advantage, 74 and 75.
- Albany, New York, attempt to formulate Union there by Franklin, 17.
- Amendments, Bill of Rights secured thereby, 75 ; first ten proposed by first Congress, September 1789, 75 ; ratified December 15, 1791, 75 ; what they contained, 75, 76.
- Alexander, Mr., cruel treatment of by Grierson, 135.
- Allen, Horatio, remarks of, 146.
- American people richer than French, 54 ; Arbiter, what is final of the Constitution, 97-99.
- Army before Boston, 39 ; description of, 39 ; kept up by patience and fortitude of Washington, 53.
- Augusta, Ga., mentioned, 7 ; capture of, 121 ; siege of, 133-154 ; taken by Americans June 5, 1781, 136.
- Author, opportunity to know, certifies devotion Southern men to Constitution, 6 ; opinion of final arbiter, 101, 102.
- Bancroft declares Constitution a nobler work than convention had believed possible to devise, 71.
- Bainbridge mentioned, 140.
- Baker, Colonel, mentioned, 127.
- Bentham's account of Wedderburn's attack, 22.

- Bill of Rights does not appear in original instrument, 75.
 Binney, Horace, eulogy on Marshal, 84.
 Black, Col. J. C. C., mentioned, 129.
 Boston Tea Party, 27.
 Bradley, Justice, mentioned, 97.
 Braddock's expedition 12.
 Breckinridge, letter of Jefferson to, 108.
 British Board of Trade begins aggressions, 18.
 Brown, Commandant at Augusta, 122; his exasperating treatment by patriots, 122; Atrocities of, 124.
 Bute, Lord, mentioned, 25.
 Burke of South Carolina, remark with reference to cotton, 145.
 "Catholicon," The "for Our Country is the Old American Spirit," 138.
 Charters, British insisted King had right to revoke, 19.
 Charter, granted colonies, 17.
 Chatham County, Ga., named, 14.
 Chatham, Lord, remarks on British Constitution, 102.
 Civilization, its advance has extended the influence of the general government, 151.
 Clause 18, section 8, article 1, subject of fifth lecture, 93; the language of, 94; none more vital to country's welfare, 94; discussion of by Supreme Court *ex parte* Yarbrough, 110, U. S. 658, 95; powers granted by authorized legislation essential and appropriate for carrying into execution the powers vested in the government, or in any department or officer thereof, 95; confers no power to make general legislation such as is exercised by Parliament, 95, 96; powers to legislate limited, but are sovereign in so far as they are expressly granted or necessarily implied, 96; powers operative on every foot of the soil of every state and every territory, 96; discussed *ex parte* Seabold 100, U. S. 371, 96.
 Clay, Henry, condemns Jackson's views, 10.
 Claims, English of America, through discoveries of Cabots, John and Sebastian, 10.
 Clarke, Colonel Elijah, mentioned, 123.
 Coal oil, 148; its marvelous value, 149; causes the spread of knowledge and education, 149-50.

- Colonists, English, soon opposed by French, 10 ; prowess of, proven in French war, 16 ; Military training in, 16 ; recent effort to donate their lands to king's favorites, 18.
- Cooley, Judge, his opinion as to Arbiter, 101.
- Common law of colonies gave no unity, 10.
- Committee on Declaration appointed, 43 ; Committee on Declaration, members, 45.
- Commerce, American, object British envy, 18, 19.
- Confederation, Committee on Articles, 53 ; articles approved, 53 ; articles, effort to induce states to accept, 59 ; articles "neither fit for war nor peace," 59 ; congress of, disbands in disgust, 63 ; articles of, contain no clause to make Constitution effective, 93.
- Confidence popular in Constitution, 5.
- Confiscations followed searches, 19.
- Concord, fight, 19, April 1775, 51 ; expedition to, 29, fight, 29 ; retreat and slaughter of British, 29, 30.
- Congress, without credit, 54 ; recommendation as to Western lands, 57 ; Centinental, lends its approval to Constitution, 69 ; legislation of first congress still survives, 90.
- Connecticut, regiment meeting of, 55 ; ratifies Constitution by a vote of 3 to 1.
- Constitution not submitted to state governments, but to conventions of the people for approval, 72 ; not certain it would be adopted by states, 72 ; debates on adoption in state convention very able, 72 ; expression legal union, 9 ; has preserved the blessings the revolution made possible, 151.
- Continental Congress, second, assembles May 10, 1775, 28 ; nature of, 51, 52 ; continental dollars, worth $2\frac{1}{2}$ cents, 54.
- Congress powerless, 40.
- Corn, American annual crop sustain mankind one year, 144.
- Cornwallis, Lord, surrender of, 51 ; sanguinary instructions, 121.
- Convention, composed of 55 members, 70.
- Cotton, 144, 145.
- Cowpens, Battle of, 130.
- Cumming, Joseph B., remarks by, 6.
- Customs, British regulations, obsolete revived, 19.

- Debate on Louisiana purchase ; remarks in debate John Randolph, of Roanoke, 110 ; of Cæsar A. Rodney, 111 ; Randolph, of Roanoke, views in conclusion, 111 ; Nicholson, of Maryland, 110, 111.
- Debate on Declaration, 45.
- Declaration of Independence, last clause of, 50 ; how drafted, 44 ; committee reports thereon, 44.
- Dedication, 3.
- Delaware gave unanimous vote, 81.
- Description of delegates Constitutional convention, 70.
- Dickinson combats declaration, 46 ; Dickinson, of Pennsylvania, writes scheme of Confederation, 53.
- Dinwiddie, Governor of Virginia, 11.
- Du Quesne, Fort taken, 14.
- Effingham, resigned rather than fight, colonists, 33 ; publicly thanked by merchants of London and Dublin, 33 ; county in Georgia named for him, 33.
- Electoral college, when first meeting, 87.
- Empress Queen, incident at her jubilee, 152.
- Emerson, Chaplain, remarks of 40.
- Evarts, Wm. M., grandson of Roger Sherman, 82.
- Federalists, 77 ; best commentary on Constitution, 77 ; dispute as to authorship, 78 ; Federal papers, 85 in number, 78.
- Fish and Oyster convention at Alexandria, 68.
- Flag, American, hoisted, 42.
- Flag at yard arm of the Brooklyn, 152.
- Fourth of July, for generation observance exiled from Southern states, 6 ; 1754 Washington surrendered Fort Necessity, 12 ; Declaration adopted, 47 ; Adams and Jefferson died, 48, 49 ; observance of advocates, 49 ; Jefferson Club celebrates, 116, 119, 153.
- France, shipping arms, money and supplies to Americans, 42 ; supplicated for loans, 54.
- Frankland, new state of, went to pieces, 90.
- Franklin, Benjamin, attempt at union, 17 ; "It is a rising and not a setting sun," 73 ; Franklin's revenge for Wedderburn's invective, 24 ; suggests articles of confederation in 1775, 52 ; at his request Washington unanimously chosen President, 70.

- French claimed American territory through expeditions, Marquette, La Salle, Joliet, Du Quesne, 10,
 French wars gave strong impulse towards union, 16; French Minister reports to his government, 63.
 Friends of America in England, 33.
 Fuller, Chief Justice, dissents, 97.
- Gage, commander British army in Boston, 28.
 Galatin, views of, 109.
 Galpin, Fort, capture of, 133.
 George III, obstinacy, 41; his proclamation calling Americans traitors hissed in Royal Exchange, 42; animosity to Whigs, 24.
 Georgia unites with patriots, 32; gives unanimous vote for adoption of Constitution, 82.
 Gladstone's opinion of Constitution, 71.
 Gloucester, Duke of, friend of America, 34.
 Glover, of Massachusetts, writes about distress of Massachusetts troops, 58.
 Gordon, Gen. John B., mentioned, 128.
 Government, of British India and American colonies distinguished, 20; people now first had a, 87.
 Great Britain recognizes independence of each state, 60.
 Greene, letter to president of Pennsylvania, 54.
 Greene, Gen. Nathaniel, mentioned, 127.
 Grenville, mentioned, 25.
 Grierson, Fort, taken by assault, 134; Colonel, shot dead after surrender, 135.
 Guerriere, the, mentioned, 139.
- Habersham, Joseph, mentioned, 32.
 Hancock, John, Massachusetts, first hesitates, 81; president of Congress, 46.
 Handy, Captain, bravery of, 136.
 Hamilton, Alexander, compared with Wm. Pitt, 56; Hamilton and Madison, "The complement of two such minds was most auspicious for the country," 67; Hamilton elected a delegate, 68; mistake of, prevented Adams receiving unanimous vote, 88; organized treasury department, 90; report showing ability of government to pay

its debts caused amazing advance in securities, 91 ; proposed to assume debt of the states, 91 ; belongs honor of placing national credit on an imperishable foundation, 91 ; prophetic suggestions of, 56 ; extreme views of, 105, 106.

Havana, taken by British, 14 ; Exchanged for Florida, 14.

Henry, Patrick, remarks about Marshall, 85 ; fiercely opposed Constitution, "We shall have a king, the army will salute him as monarch," 85 ; Patrick Henry in the old church at Richmond, 139.

Hisslop, Lieutenant-General, Governor-General of Bombay, captured on Java, 140.

Hoar, George F., grandson of Roger Sherman, (note) 82.

Holmes, Oliver Wendel 139.

Hull, Isaac, extract from report of, 140.

Hutchinson's letters, 20.

Inauguration, new government, when first had, 87 ; first inauguration, 89 ; from Washington's the country has taken no step backward, 91 ; Indigo, attempt to cultivate in Savannah, 144.

Independence, not considered at first, 41 ; remarks of Franklin, Jefferson and Washington thereon, 41 ; Day, importance of celebrating, 49 ; Day, celebration of in Augusta, Ga., 6 ; Hall convention meets in, 70.

International laws, determination of United States has force of, in this hemisphere, 151.

Intolerable Acts, the, 27.

Jackson, President, vetoes bank bill, 100.

Jackson, Major James, illustrious and dramatic character, 127.

Jefferson, Thomas, description of, 78 ; Jefferson, Chairman of Committee, 43 ; his character, 43 ; opinion of Royalties in Europe, 79 ; appreciates grandeur of American reception, 79 ; at first thought amendments to Articles of Confederation sufficient, 79 ; finally comes out bravely for Constitution, 81 ; Death of, 79 ; inscription on his tomb, 49 ; "Jefferson Club," Augusta, Ga., celebration Independence Day by, 6 ; letter from, 117 ; motive of, 119, alarm at Napoleon's action, 105 ; proposes alliance with Great Britain, 105 ; could find no authority in Constitution to buy Louisiana, 107 ; buys it nevertheless, 109 ; remarks to his Cabinet, 109 ; amendment to Constitution

- authorizing purchase ignored by Cabinet and Congress, 109-110; views of Monroe's mission, 106.
- Johnson, Samuel, reference to Pitt, 13.
- Jones, Chas. C., Jr., History of Georgia, mentioned, 125.
- Jones, Noble Wimberly, mentioned, 32.
- Keppel declines to serve against patriots, 33.
- King attempts to cede lands to favorites, 17.
- Lafayette joins Americans, 34; letters to his wife, 39.
- Lamar, Justice, dissents, 97; extract from opinion of, 97; Land, granted colonies by charter, 17.
- La Boeuf, French poet, 12.
- Lectures, purpose of these, 5.
- Lee, Richard Henry, introduces resolution looking to Independence, 43; "Letters of a Federal farmer," written by Richard Henry Lee, in opposition to the Constitution, 78.
- Lee, Light Horse Harry, character, 130-132.
- Lee, Gen. Robert E., mentioned, 130.
- Lexington, Kentucky, how named, 32.
- Lincoln, President, remarks on Dred Scott case, 100.
- Lord Mayor and Common Council of London, presented petition against coercion, 36.
- Louisburg taken, 14.
- Louisiana, treaty, secret concerning, 14; named for Louis the fourteenth, 15; sold to the United States by Napoleon Bonaparte in 1803, 15; purchase of, 103; purchase enormous benefits, 114.
- Macon *Telegraph*, mentioned, 5.
- Madison, James, suggests conference with States, 68; advocacy of, secures passage of amendments, 76; description of, 76; no conditional ratification possible, 86; administration leader in house, 90; his first suggestion restores credit of Union, 90; elected delegate, 68; again induces Virginia to take the lead, 69; termed Father of the Constitution, 76; survived to days of nullification, 77; in last message to his countrymen appealed for respect and obedience to the laws of the Union, 77; resigned from Congress to enter Virginia convention, 84.
- Maryland, last to accept confederation, 59; Maryland and Virginia invite the States to meet at Annapolis, 68.

- Marshall, John, description of, 84 ; powerful advocate of Constitution, 84 ; extract from opinion of, 98.
- Mason, George, of Virginia, entirely hostile, 83
- Massachusetts, conservatism and wealth of people, for Constitution, Revolutionary generals also advocate it, 80 ; description of opponents, 80-81 ; votes for United America, 81.
- Maximilian, Invasion of Mexico by, 104.
- McCall, Col., mentioned, 123.
- Mecklenburg, declaration signed, 37.
- Mercer University Law Class, 4.
- Military powers of our united country, 151.
- Miller, Justice, mentioned, 97.
- Mineral and metallic wealth, 146-148.
- Minute men, 28.
- Mifflin, President of Congress, remarks on Washington's resignation, 64.
- Mississippi, right to navigation asserted by Congress, 90.
- Mobile, founded by D'Iberville, 10.
- Montcalm, greatest of French Governors, 13.
- Morgan's rifle corps marched to Cambridge, 31 ; Gen. mentioned, 130.
- Mount Vernon, Washington retires to, 64.
- Mourning worn in England for Americans killed at Lexington and Concord, 33.
- Monroe, James, authorized to buy New Orleans from Napoleon, 106.
- "Museum" American, opinion of writer in, 62.
- Napoleon compels retrocession from Spain of Louisiana, 104.
 "Not only New Orleans I see, but the whole colony without reserve," 112 ; his motive, 112 ; ludicrous interview between himself Lucien and Joseph, 112-113 ; price paid, 113.
- Navigation laws made obnoxious to the colonists, 25.
- Neagle, *In re*, 97.
- Necessity, Fort surrendered, 12.
- North Carolina and Rhode Island reluctant action, 86-87.
- New England bitterly hostile to Quebec Act, 27.

- New Jersey took favorable action, 81.
 New Orleans founded by French company, 10.
 New York, French driven from, 14; ratifies Constitution in July, 86.
 North, Lord, mentioned, 25.
 Ogleshorpe, Lieutenant General, declines to command invading force, 33; first visitor to John Adams as American minister, 65.
 Ohio Co., its endeavors, 11.
 Old Ironsides, 139.
 Ordinance for Government North West Territory, 89.
 Otis, of Mass., resisted Writs of Assistance, 19.
 Paine, Thomas, pamphlet "Common Sense," 42; letter of Jefferson to, 109.
 Peace of Paris, 18; peace declared September 3, 1783, 60; treaty of, 15.
 Penhollow, vs. Doane, Judicial interpretation powers Continental Congress, 52.
 Penn, Richard, Mission to the King, 41.
 Pennsylvania, line meeting, 58; feeling for Constitution strong, 82.
 Pettigrew, opinion of Marshall, 84.
 Phelps, Mr. Edward J., comments on American judiciary, 102-103.
 Pinkney, William, eulogy on Marshall, 84.
 Pickins, Gen. Andrew, character, 129-30.
 Pig Iron, 146; increased value for manufacture, 147-48.
 Pitt, William, becomes prime minister, 13; Pittsburg named, 14.
 Political Union, American States began with Concord fight, 30.
 Preface, 5.
 Presidential electors, when first chosen, 87.
 Prescott, Rebecca, wife of Roger Sherman, and grandmother of George F. Hoar and William M. Evarts, anecdote of, 82.
 Quaker State inscribes name of Franklin first on her roll, 70.
 Quartering troops resisted, 26.

- Quebec, taken, 14 ; Quebec Act, 27.
- Quorum obtained in Pennsylvania by pursuing absentees, dragging them to the assembly and locking them up, 82.
- Rudolph, Major, romantic tradition, 136.
- Railroads, mentioned, 146.
- Revere, Paul, carries the news, 28.
- Rockingham, Lord, mentioned, 25.
- Royal Americans, their military distinction, 16.
- Salem, expedition to, 26.
- Sallust, quotation from, 138.
- Searches unreasonable begun by British, 19.
- Secret treaty between France and Spain, 14.
- Securities of government at once advance, 91.
- Sherman, Roger, Connecticut action of, largely due to his influence, 82.
- Sheridan, mentioned, 104.
- Silk worm, attempt to cultivate at Savannah, 144.
- Spies of Sir Henry Clinton hanged, 58.
- Speer, Emory, letter from, to Jefferson Club, 117-18 ; Alexander, mentioned, 146.
- South Carolina adopted the Constitution before Virginia and North Carolina, 82.
- Stamp Act resisted, 26.
- States, debts of, amount \$21,500,000 assumed by government, 91.
- Study of the Constitution, value to youth, 91-92.
- Talleyrand, " You have made a noble bargain for yourself," 114.
- Tax on tea resisted, 26.
- Taylor, John, of Carolina, mentioned, 107.
- Telfair, Edward, mentioned, 32.
- Thackeray's account of Braddock and his officers, 13.
- The soil on which we stand is historic, 120.
- Ticonderoga, taken by English, 14 ; taken by Americans, 28.
- Times, signs of all brightened on adoption of Constitution, 89.
- Trenton, reception of Washington in battlefield, 89.

- Tyler, Samuel, Prof., criticises remarks of Mr. Lincoln, 101.
 Union, its value, 5.
 United States, magnificence of, 141-42; vast and varied resources, 143.
 Virginia, took the lead, 67; shows the patriot commander at head of her delegation, 69; and Middle States only represented in Annapolis convention, 69; and New York hesitation gave great concern to patriots, 83; votes for Constitution on June 25, by a majority of ten, 86.
 Walpole, reference to Pitt, 13.
 Washington, extract from farewell address, 5; sent as messenger to warn French, 11; Intrepidity of, at Braddock's defeat, 13; Washington, made Commander in Chief, 47; description of, 37; believes strongly in Divine power, 38; letter to Joseph Jones, 55; to George Mason, 57; opinion of Confederation, 61; letter to Jefferson, Wythe and Pendleton, 61; knowledge of country's difficulties, 65; resigns as Commander in Chief, 64; his determination that America should have a government sufficient for its exigencies, 66; writes autograph letter, 69; opinion as to issue of adoption, 72; the "silent watchman," 83; receives unanimous vote of Electoral College, 87; triumphal progress to inauguration, 89; affection for Col. Lee, 131.
 Webster, Daniel, divination of Adams' speech, 46; condemns Jackson's views, 101; immortal utterances of, 151.
 Wedderburn, attack on Franklin, 21; disastrous effect of same, on the British interest 23.
 Wesley, John, takes part for colonists, 34.
 "White House," desperate defense of, 123.
 Wilkes County, revolutionary character, 122; for whom named, 122.
 Williamson, Micajah, mentioned, 127.
 Witherspoon, Dr., mentioned, 130.
 Women and children of Georgia, flight to Tennessee, 126.
 "World turned upside down," 51.
 Writs of Assistance issued by Crown, 19; declared contrary to Magna Charta, 19.

